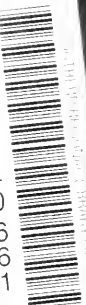


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CHARGE

OF THE

Lord Chief Justice of England.

CHARGE

OF THE

LORD CHIEF JUSTICE OF ENGLAND

IN THE CASE OF

The Queen against *Thomas Castro*,

Otherwise *Arthur Orton*, otherwise *Sir Roger Tichborne*.

Reprinted from the Official Copy taken from the Shorthand Writer's Notes.

Corrected by the Lord Chief Justice.

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CHARGE

OF

The Lord Chief Justice.

GENTLEMEN OF THE JURY, I congratulate you heartily on having arrived at the last stage of this protracted and, in many respects, painful inquiry. I wish I could hold out to you any reasonable prospect that the last stage was likely to be a short one; but when I look at the extent of time over which this inquiry ranges, the host of witnesses whose evidence we shall have to consider, the multitude of documents and letters which we shall have more or less to go through, and the complicated nature of the facts involved in the inquiry, I am afraid I shall have to draw somewhat largely on your time and patience, in order to place this case before you in its various lights and bearings. But you have shown such unwearied attention, such inexhaustible patience, such a desire to get at the bottom of the case, and thoroughly to understand it, that I am sure you will bear with me while I make those observations to you upon it which may appear to me necessary to enable you to arrive at a satisfactory and conclusive judgment. Preliminary observations.

Gentlemen, I said that this was in many respects a painful case, and assuredly it has been so, and I say this not only with reference to many of the issues involved in it, but also by reason of the course which has been pursued in the conduct of the defence. It is most distressing to a judge presiding at a trial to find himself in frequent conflict with one of the counsel in the cause; but such has unfortunately been the case with us over and over again in the course of this inquiry. It has a very painful effect, so far as the judge is concerned, because he cannot help being conscious that to the bystander, who only sees the case upon the surface, it may have the effect of creating a suspicion of partiality and prejudice in the mind of the judge. When point after point, either of attack or defence, is taken, of a frivolous and untenable character, the judge has, of course, no alternative but to overrule the points so taken; and if similar instances are multiplied, either through ignorance of the law, or, as would

appear to have been the case here, from a desire to produce an effect on the outside world, by making it appear that the counsel and his cause are treated unfairly—while the judge has no alternative but to do his duty—the perpetual recurrence of such instances is, of course, calculated to produce an unpleasant and unsatisfactory impression. This, however, is but a minor part of the matter. Our position was rendered painful from this, that we had, again and again and over again, to interfere with the defence of the learned counsel, in order to correct misstatements and misrepresentations which we could not allow to pass unnoticed. When witnesses are misrepresented, when their statements are distorted, when facts are perverted, when dates are set at naught—and all this not for the purpose of argument in the cause, but in order to lay the foundation for foul accusations and unjust imputations against parties and witnesses—when one unceasing torrent of invective, of dirty, foul, slime is sent forth wherewith to blacken the characters of men whose reputations have hitherto been beyond reproach, it is impossible for judges to remain silent. It is not enough to say that the counsel should be allowed to go on with his address to the end, and that the judge should wait till it comes to his turn to speak to set matters straight, seeing that—especially in such a case as this, when weeks or months might elapse before the judge could have an opportunity of expressing his opinion upon matters of this kind—in the meanwhile a temporary impression—perhaps that is all that is hoped to be gained—may go forth, fatal to the honour, to the character of persons thus assailed, and wounds may be inflicted which may possibly never be healed. We therefore felt it our duty to interpose and to check the torrent of unbridled and indiscriminate abuse which the learned counsel for the defendant thought proper to indulge in. And in what way were our remonstrances met? In ordinary cases, if in the heat of argument or the fervour of oratory, or the zeal which a counsel sometimes exhibits in examining or cross-examining a witness, the strict bounds of propriety are, as will occasionally be the case, overstepped (I am bound to say for the honour of the Bar of England, it happens very rarely indeed), a word from the judge is sufficient to restrain overflowing zeal within its proper and legitimate limits. But how were we met? By constant disrespect, by insult, by covert allusions to Scroggs and Jeffreys, and judges of infamous repute—as though, by the way, if the spirit of Scroggs and Jeffreys still animated the Bench in the administration of justice, the learned counsel would not have been pretty quickly laid by the heels and put to silence! But in that way we were met, and by suggestions that we were interfering with the liberty and the privilege of the Bar. Gentlemen, I will undertake to say that no three judges ever sat on this Bench or any other to whom the liberty of the Bar was more dear or more sacred than it is

to my learned colleagues and myself. We know full well that the freedom of the Bar is essential to the administration of justice; we know that it would be a fatal day, indeed, for this country if the freedom of the Bar were interfered with. It may be abused, as it was here, but that is a rare exception, an exception which perhaps only proves the rule. Interfere with the liberties of the Bar! What! in checking the licence of unscrupulous abuse, in restraining that which, instead of being fair and legitimate argument, amounts to mis-statement and slander! The Bar of England, as high-minded and noble-spirited and generous a body of men as are to be found in the world, would never claim slander as one of their privileges, or consider its restraint as an invasion of their rights:—

“Slander,—

Whose edge is sharper than the sword; whose tongue
Outvenoms all the worms of Nile; whose breath
Rides on the posting winds, and doth belie
All corners of the world—kings, queens, and states,
Maids, matrons—nay, the secrets of the grave
This viperous Slander enters.”

This the Bar of England will never claim as a weapon to be found in their armoury, or to be used in the advocacy which they so nobly carry on and exercise. And in this case, gentlemen, the living and the dead have been equally aspersed. There never was in the history of jurisprudence a case in which such an amount of imputation, accusation, and invective was used before; and I trust that such an instance will never occur again. Though this prosecution is instituted by her Majesty's government, and carried on on the part of the Crown, you have been asked to believe that every one connected with it, from the highest to the lowest,—counsel, solicitors, clerks, detectives, everybody, are engaged in one foul conspiracy, and have no hesitation in resorting to the most abominable means to purchase testimony and corrupt witnesses. Bribery, you have been told, has been unhesitatingly resorted to; witnesses against whom I should have supposed that nothing could be said except that they might be mistaken in the evidence they gave, have been charged with having been bribed and with having committed perjury. Imputations are cast out to the right and to the left. One man is called a felon, against whom there is no more ground for charging felony than against any one of us. The authorities of Stonyhurst are charged, upon no ground or foundation whatsoever, not only with not teaching morality to their students, but actually with designedly corrupting their minds. They are said to have adopted a system by which youths are sought to be brought up to be “men with the minds of women,” and a covert hint is thrown out of abominations half revealed at which one recoils and shudders, without any more ground for it than if the imputation had been

brought against the authorities of Eton or Westminster, or any of our great public schools. The dead are assailed in the same way. Sir James Tichborne is called "a degraded slave." Lady Doughty is charged with base hypocrisy: it is alleged that, having discovered that her nephew had attempted the honour of her own daughter, or even succeeded in the attempt, she shows him the door with bland smiles and honeyed words. Captain Birkett, who went down in the "Bella" when she foundered, is actually charged with having scuttled the ship in which he unfortunately perished. I could not have conceived it possible that such a series of foul and slanderous imputations could have been brought forward in the course of this defence, and I felt it, I must say, the more keenly, because the learned counsel in the outset of his address thought proper to parade before you an opinion which I myself had expressed on a particular occasion, in the belief that I was speaking in the name of the Bar of England, and which, I am happy to say, received their unanimous approval. I then attempted to draw the distinction between that which is legitimate in advocacy and that which is forbidden; and I illustrated the difference between the *fas* and the *nefas* of advocacy by the analogous case of the sword of the warrior and the poisoned dagger of the assassin. The learned counsel began by citing my language, and then, applying it to his learned adversary, charged him with having been guilty of the use of the dagger of the assassin in the conduct of this case. A more unfounded charge, I am bound to say, in justice to the professional honour of Mr. Hawkins, has never been made. But that the learned counsel for the defendant should begin by citing with approbation that expression of opinion of mine, and then should proceed to exhibit all—nay, much more than all that I ever could have conceived to be possible—of the *nefas* of advocacy which I therein denounced, does, I confess, appear to me so surprising, that it seems to me that he can only have paraded that honest sentiment of mine for the purpose of mocking it, by showing how utterly and entirely he disregarded it. Gentleman, it has been very painful indeed for me to make these observations, but the case called for it. Liberty of the Bar! Till this time I should not have thought it capable of abuse; but we have unfortunately witnessed its abuse. Of that abuse a fitting corrective is to be found in the censure of the Bench, which I know will meet, as it ought to meet, with the universal concurrence of the Bar of England.

Issues in the
cause.

Passing away from this unpleasant and painful subject, let me come to the matter of the inquiry which is before us; and the first thing to consider is, what are the issues with which you will have to deal, and which you will have to dispose of? The first and main issue is the question of whether or not the defendant is Roger Tichborne. That is the first and the principal assignment of perjury on

this indictment. There are many subordinate assignments, but in the main they resolve themselves into this one. Whether he resided at Paris from the time of his birth until 1845, whether Châtillon was his tutor, and other similar allegations of perjury upon the facts stated by him, although they appear on the face of this indictment, it is unnecessary to dwell upon or particularize, because they all range themselves under the one and principal head. If the defendant has sworn falsely in saying that he is Roger Tichborne, it is quite clear that he has sworn falsely in saying that he resided at Paris, that he had M. Châtillon for his tutor, and in all the various other statements which he has made in the course of his examination and cross-examination. Then another principal allegation is, that he has forsworn himself in saying that he is not Arthur Orton. Here, again, gentlemen, if he is Arthur Orton, he is not Roger Tichborne, and, therefore, this again is subordinate to the main question, the principal and leading question in the case, namely, whether he is Roger Tichborne. If he is Arthur Orton, of course he cannot be Roger Tichborne; but the converse of the proposition does not hold. He may not be Arthur Orton, and yet he may not be Roger Tichborne. But whether he is Arthur Orton is, nevertheless, one of the main issues in the case. Subordinate again to that question are various minor incidental questions, such as, did he go to Wapping?—Did he do this, did he do that, and did he do the other, as connected with the career of Arthur Orton? You will have, therefore, to decide whether in swearing he is not Arthur Orton, he has sworn falsely. If you come to the conclusion that he is Arthur Orton, this will of necessity dispose of the main question; because if he is Arthur Orton he is not Roger Tichborne. But amongst the minor charges which are made against him is one which stands clear of the question whether he is Roger Tichborne or not—I mean that assignment of perjury which relates to his charge against Lady Radcliffe; because it is conceivable and possible that, being Roger Tichborne, he may, nevertheless, have sworn falsely with regard to Lady Radcliffe. For instance, suppose that, knowing himself to be Roger Tichborne, but knowing that it was alleged that a certain sealed packet had been left by him, the nature and contents of which he might possibly have forgotten, or as to which the circumstances under which it was given had passed from his recollection, and that knowing that Lady Radcliffe would be called as a witness against him and intended to denounce him to the world as an impostor, and being desirous of removing out of his way so great a difficulty, he had resorted to falsehood and perjury to get rid of it, as also to neutralize the effect of the testimony of so formidable a witness—that being Roger Tichborne, and in such case knowing that his cause was a just one, but being conscious of its weakness in this particular, he

had had recourse to a foul and wicked falsehood for the purpose of strengthening it—in that case, although he would not be guilty of perjury, in having asserted himself to be Roger Tichborne, he would be guilty of perjury in having preferred a false accusation against the lady in question. Consequently, though you should find him to be Roger Tichborne, there would still remain the question of whether he has committed perjury in respect of that which he has stated with regard to Lady Radcliffe. But the main and great issue is, is he Roger Tichborne?

Now, complaints have been made by his learned counsel on his behalf that so large an area of inquiry should have been included in this indictment. Gentlemen, it was impossible to avoid it. It would have been idle and ridiculous to bring this defendant before you on a charge of perjury without embarking on the great and fundamental inquiry, is he Roger Tichborne or is he not? Observe that, with regard to the nature and degree of the offence—the question of aggravated guilt, or of mitigated guilt—everything depends on whether he is Roger Tichborne or not, and whether he has or has not put forward a false and unfounded claim for an iniquitous and detestable purpose. The difference, morally speaking, is obvious at the first glance. If, not being Roger Tichborne, he has, with a view to deprive another person of his birthright and inheritance, preferred a false and iniquitous claim, it is difficult to conceive a more abominable fraud; and if that fraud has been attempted to be carried into effect by perjury, it is scarcely possible to conceive perjury more wicked or more deserving of the heaviest punishment the law can inflict. Very different would it be—though, of course, under any form and any circumstances perjury is a wicked and heinous offence—if a man, knowing his cause to be a just one, and the claim he is putting forward a righteous one, but conscious that there are weak points in his case, should seek to make these good by false evidence. Suppose a man, knowing himself to be guilty, suborns a witness to prove that he was not present at the time when the offence with which he is charged was committed, he is guilty of suborning a witness for a wicked and false purpose. But suppose he knew himself to be innocent, but knew that there were circumstances of suspicion which might weigh against him, and possibly involve him, though innocent, in the consequences of guilt, and that thus circumstanced he induced some one who was anxious for his safety, and believed firmly in his innocence, to come forward and swear falsely, how different it would be. So, if the defendant, knowing his claim to be well founded and just, in order to cover some weak points in his case, made statements on oath, inconsistent with truth, he would be guilty of perjury, it is true, but of perjury of a far less heinous character; for the difference is obvious between a case in which

perjury is resorted to, to compass a wicked and iniquitous end, and where it is resorted to only for the purpose of enabling innocence and justice to prevail. In order, therefore, to see what was the nature of the offence, if any, which the defendant has committed, it was necessary that the accusation should embrace the larger question. I know there have been persons, and persons in authority, who have said, "Why do they not put this man on his trial on one of the shorter questions in the cause—as, for instance, whether he was at Stonyhurst; whether the 'Bella' went down as described; or whether his story with regard to Lady Radcliffe is true? Any one of those would suffice, and the case would be quickly over. It would not then last for weeks or months. The jury would determine it quickly and there would be an end of it." The persons who have spoken thus have not reflected sufficiently on the matter. For, when you come to think of it, it would have been impossible that any one of the minor and subordinate issues which arise in this case could have been submitted to a jury without the whole question being incidentally gone into. For though the prosecution, if they had put the defendant on his trial on one of the subordinate issues, could not possibly, with any decency or show of justice, have proposed to go into the whole and entire question, the defendant would have had this advantage, that while they were restrained within the limits they had voluntarily prescribed to themselves, and were thus necessarily crippled, he would have been entitled to go into the whole question, from the beginning to the end. For if, as the learned counsel suggested, they had put him on his trial on an indictment charging him with perjury in saying that he had been at Stonyhurst for three years, what would have been the course pursued on the part of the defendant? It would have been plausibly urged, and the prosecution could not have prevented it—"You have put this man on his trial on one of these minor issues, because you did not dare to put him on his trial on the main issue involved in the inquiry. You knew he was Roger Tichborne, but you thought that upon one of these minor issues he would not have the means of proving himself to be Roger Tichborne; and, consequently, in order to crush a man whom you knew to be innocent, you resorted to this device of trying him on a minor question. But we will not be bound by what you have done. He may not be able to prove that he was the Roger Tichborne of Stonyhurst, and our defence, therefore, on that particular ground might be weak, which is the reason why you selected it as the one on which to assail him. But we will enlarge the field of battle, and prove that he is Roger Tichborne of Stonyhurst, by proving that he is Roger Tichborne of the Carabincers; because, if he is the Roger Tichborne of the one, he must necessarily be the Roger Tichborne of the other." That would have been the vantage ground, which, by

taking such a course, the prosecution would have afforded to the defendant. In my opinion it would have been not only a most unwise course, but one altogether unworthy of a State prosecution of this kind. Again, when it is complained that the indictment has embraced the allegation of perjury in the matter of Lady Radcliffe, my astonishment knows no bounds. I shall advert to this part of the case again when I come to the case of Lady Radcliffe by-and-by; but I must say, as observations have been made upon it, that I think it would have been in the highest degree unworthy of the prosecution, if they had not made that part of the case an essential part of this indictment. For what would then have been said? Do you, from what you have seen and heard of the learned counsel for the defendant, think that he would have been too scrupulous to use this species of argument? He would have said, "Upon the former trial the case of Lady Radcliffe and the sealed packet was made a crucial test of the identity of the defendant. You might have made it so on this. You have not done so. Why? Because you knew that the charge which the defendant preferred against Lady Radcliffe was a well-founded one, and, therefore, did not dare to bring it forward; and from the fact of your not bringing it forward, and from the inference which thereupon arises that it is true, I found my strongest argument that this man is Roger Tichborne; for if he had not been Roger Tichborne he could not by any human possibility have been acquainted with the facts; and it is, therefore, on his knowledge of what had passed between Roger Tichborne and Lady Radcliffe, and which you, by withholding the issue from the determination of the jury, have virtually acknowledged to be true, that I found the strongest argument of his being Roger Tichborne." Thus the defendant would have had an advantage which he ought not to have over Lady Radcliffe, who would have been sacrificed by the omission of the prosecution to bring her case forward. In my opinion they have taken the right course. They have done perfectly right in submitting to your consideration the entire question of whether the defendant is Roger Tichborne; and they have been perfectly right, and done no more than they were bound to do, in making the inquiry with reference to Lady Radcliffe a prominent and essential part of the case which you have to decide.

The question before you will therefore be, first and foremost of all, is the defendant Roger Tichborne? As to this, let us see what the position of the parties is. The issue is the same as was raised in the trial of ejectment in the Court of Common Pleas, but the position of the parties is reversed—a circumstance which must not be lost sight of. The defendant's counsel, in his opening address to you, boldly challenged your verdict, not merely for the purpose of acquitting his client, but, as he stated, for the purpose of insuring the

restoration of his estates. For if you by your verdict should acquit him, this, he said, must follow as a necessary consequence. The people of England would rise with unanimous fervour, and would find him the means of immediately recovering the estates of which he is unjustly dispossessed. Gentlemen, if upon your verdict in favour of the defendant the possession of the estates which he claims would at once necessarily follow, you might, indeed, upon the conflict of evidence which has been brought before you, pause for a very long time before you found a verdict which would lead to that consequence. But a position might have been taken by the counsel far more favourable to his client. His restoration to those estates would certainly not follow as the consequence of your verdict. In a case where a man claims property which is in the possession of another, he has to satisfy a jury beyond all reasonable doubt that he is entitled to that which he claims. The law of every country, as well as that of England, presumes in favour of possession; and I cannot conceive a case in which the wisdom and propriety of that doctrine could be more signally illustrated and shown than it is in this. A man comes forward who alleges himself to have submitted for years to voluntary exile; who has given no tidings, direct or indirect, of his existence; who has allowed rights to arise upon the supposition of his death, and expectations to be formed, the disappointment of which must be attended with pain and distress; and springing up, as it were, from the grave, he suddenly says to those who have taken possession of the estates under an honest belief of their undoubted and indisputable right, "I am the true owner, stand on one side, and make way for me." Those who should know him look at him, and fail to recognize in him the man he asserts himself to be, and say, "We do not believe in you." Those in possession ask, "Why have you been thus long in obscurity and exile, if you are the man you claim to be?" Under these circumstances it seems to me possession should carry with it, morally, honestly, and justly, as well as legally, the consequences which usually attach to it, until such a man has shown, beyond all reasonable doubt, or possibility of doubt, that he is the man he claims and asserts himself to be. But while that is the case with regard to a claim to the possession of an estate, the position of the parties is very different when you not only avail yourselves of the right of possession to keep him out, because he cannot prove himself to be what he claims and asserts himself to be, but also seek to visit him with punishment for having sworn falsely in asserting that he is the true man. The issue is the same, but the position of the parties is reversed. When, in a case like the present, property is claimed, the man who claims it must establish before a jury, beyond all reasonable doubt, that he is the man who is entitled to it; but when he is sought to be visited with the punishment of the law for having

sworn falsely in so asserting, it is for those who seek to visit him with the legal consequences of perjury to prove this perjury beyond the possibility of reasonable doubt. The question, therefore, is not so much whether he is Roger Tichborne, as whether the prosecution has proved that he is not Roger Tichborne.

Now, the question being one of identity, a good deal has been said about the doubtful nature of the inquiry, and of the only proof which, generally speaking, can be produced of identity; and I quite agree that it is one of the most difficult questions with which courts of justice and juries have to deal, and that it is one of those questions upon which they are occasionally liable to go wrong. But ordinary cases of identity are very different indeed from the present. Frequently a man is sworn to who has been seen only for a moment, or for a very short space of time. A man stops you on the road, puts a pistol to your head and robs you of your watch or your purse; a man seizes you by the throat, and while you are half strangled his confederate rifles your pockets; a burglar invades your house by night, and you have only a rapid glance to enable you to know his features: In all these cases the opportunity of observing is so brief that mistake is possible, and yet the lives and safety of people would not be secure unless we acted on the recollection of features so acquired and so retained; and it is done every day. There are instances, indeed, in which the supposed recollection of the features of a person accused has proved faulty. I have known such instances myself. I remember to have been present years ago at a trial, which I never shall forget, on the Western Circuit, in which two men were tried for murder. They were both convicted, one upon evidence of identity given by numerous persons, who all swore to the man. He was convicted, and if execution had followed upon conviction with the rapidity it did at an earlier time, the man would have been executed. It was proved afterwards, beyond all possibility of doubt, that those who had sworn to the identity of the man were mistaken. He had been taken up for picking pockets on the day the murder was committed hundreds of miles away from the place; he was in confinement at the time under the latter charge; there was not the slightest doubt in the world about it. The man was, of course, reprieved. I tried a case not very long ago at Hertford, where a man was charged with night poaching and with a most serious assault upon a keeper—the keeper having been most cruelly used. The keeper was a most respectable man, head keeper of a nobleman in the county. Nobody doubted his perfect veracity and intention to speak the truth, and he swore most positively to the man. I had not the slightest doubt of his testimony. The jury convicted the prisoner. It turned out afterwards that we were all mistaken. It was shown satisfactorily that he had been mistaken for another man. Therefore, I quite agree with what

was said by the learned counsel for the defendant, that in ordinary cases identity is a very difficult point; and here it is the question at issue in this case. But in the cases I am speaking of, you have merely the evidence of persons who have had a short and casual opportunity of becoming acquainted with the appearance of the individual. Here we have a much wider range of proof; but at the same time the inquiry is one which has its own peculiar difficulties; for whereas in the cases to which I have been referring, the recollection is called forth in a court of justice speedily after the event, here we are dealing with the identity of a man alleged to have been dead ever since 1854, twenty years ago, and the asserted identity of another man who for a great number of years has disappeared from the knowledge of all those who knew the undoubted man—from the year 1854, at all events, until the year 1866 or 1867. And if in ordinary cases evidence of identity is calculated to mislead us or embarrass us, how much more must it do so in a case like the present, where you have a host of witnesses on the one side confronted with an equal host on the other; where, with the exception of the mother, you have an entire family—I say an entire family, for I attach no value to the opinion of Mr. Biddulph—a body of persons who were as familiar with Roger Tichborne, whose existence is in dispute, as it is possible for people to be, and who deny the identity of the defendant—and, on the other hand, the mother of the undoubted Roger Tichborne asserting that he is her son—a host of witnesses coming forward to say that he is not the man, and an equal, or perhaps a greater number coming forward to say that he is; while the matter is still further complicated by this extraordinary circumstance, that while the defendant says, “I am Roger Tichborne,” and produces numerous witnesses to say that he is, and another vast array of witnesses come forward to say he is not, the identity of the man, who thus claims to be Roger Tichborne, with a totally different individual, namely Arthur Orton, is in like manner asserted and contested. So that the defendant stands, as it were, between two persons, between Arthur Orton on the one hand, and Roger Tichborne on the other; and while he asserts he is Roger Tichborne, a host of witnesses declare that he is Arthur Orton; so that the same conflict which occurs with reference to his identity with Roger Tichborne occurs with reference to his identity with Arthur Orton, and you have witness after witness produced to say he is Arthur Orton, and witness after witness to say he is not.

Now, it strikes me very forcibly that to a certain extent both sets of witnesses are right, and both sets of witnesses are wrong, and that it is impossible to suppose that there is not some likeness between Roger Tichborne and the defendant, or to suppose there is not some likeness between the defendant and Arthur Orton; and possibly in

the end this may serve to solve some of the difficulties which the evidence would otherwise create. I have been much struck and impressed by the fact that the witnesses who described Arthur Orton to us, in many instances described him in the very same identical terms as are applied by the witnesses in the other part of the case in describing Roger Tichborne. It may be that herein we shall by-and-by find the solution of our difficulty; but I am anticipating matter which will come in its proper place hereafter. All I am pointing out to you now is the complicated and difficult nature of the inquiry, so far as regards the evidence of witnesses with reference to personal appearance. If the case rested there—if you had no other evidence before you than the conflicting testimony of those who say the defendant is Roger Tichborne, and of those who say he is not, your minds might be left in doubt, unless, indeed, having considered which set of witnesses were more likely to be right, you might make up your minds on the balance of authority and weight in favour of the one side rather than of the other. But fortunately the case does not rest there. Besides this conflict of evidence of opinion, we have a mass of facts which may serve to guide us to a right conclusion. We have the life of Roger Tichborne portrayed before us in a manner which, I think, cannot mislead or deceive us, and you will by-and-by have to form an estimate of the knowledge and recollection of the defendant of the events of that life, as ascertained and established, and you will thus be better able to judge of the value of the evidence as to personal identity adduced on the one side and on the other. You have even more than that. You have that to which I should urge you to direct, above all, your anxious and vigilant attention; you have the conduct of the defendant, and you will have carefully to consider that conduct to see how far it is, or is not, compatible or reconcilable with the fact of his being Roger Tichborne. Most of it is admitted, or is beyond doubt: as it makes for him or against him so let it operate. The character and conduct of Roger Tichborne, his views, his intentions on the one hand—the conduct of the defendant when he comes forward to assert himself to be Roger Tichborne as compared therewith on the other—are, to my mind, all essential to your decision of the great issue involved in this inquiry as to whether he is Roger Tichborne or not.

Now, the question being whether the defendant is Roger Tichborne, the first thing which it strikes me we have to do, is to familiarize ourselves with the life of Roger Tichborne during the period of his undoubted existence, to review carefully the various events of that short life, and to endeavour with the materials we possess (and fortunately they are tolerably abundant) to make ourselves thoroughly acquainted, as far as we can, with all that relates to

Roger Tichborne—personally, intellectually, morally, socially—with all, in short, that goes to make up the sum and substance of the individual man. Fortunately, as I have said, we have abundant materials for this purpose. Roger Tichborne was an habitual letter writer; almost as greedy of correspondence as a school-girl; writing in the full confidence of his heart to two at least of his correspondents; thus affording us an opportunity of becoming acquainted, not only with the events of his life, but with the thoughts, the feelings, the passions which were at work within him. Thus, by following these letters, we are enabled to track him, as it were, step by step, through all the phases of his life, and to know exactly who and what the man was; what were his views, what were his hopes, what were his intentions. When by this means we have got the picture of Roger Tichborne clearly before us, we shall be better enabled to judge whether the defendant has shown himself to be the man or not; whether, upon a fair view of all the circumstances, you can come to the conclusion that he is or is not, in fact cannot be, the Roger Tichborne he asserts himself to be.

Gentlemen, in addition to the evidence to which I have just been adverting, there is another head of inquiry which is equally important. One man may be very like another. There have been such instances in the world, or imposture would never have been attempted. A man would scarcely attempt to personate another unless he more or less resembled him. If a fair man were to present himself as the representative of a dark man, if a tall man came to take the place of a short one, a stout man that of a lean one, a man with a turned-up nose that of a man with an aquiline one, he would be rejected at once. But we know, from instances familiar to those who are acquainted with the history of jurisprudence, that impostures have been tried on a large scale, and have for a time succeeded, though in the end they have failed with signal disaster, and truth and justice have prevailed. We know from such instances, that there are sometimes men, who not being even relations, are so like one another that a casual observer might mistake them. Between twin brothers and twin sisters we know the likeness is sometimes such as to baffle observation. Dramatists have made such resemblances the foundation of amusing representation on the stage. In a play we are all familiar with, the “Comedy of Errors,” there is the double Antipholus, and there are the two Dromios. In the still more amusing play of Plautus, which was its prototype, there are the two Menæchmi; and it may be that there sometimes exists in nature the outward similitude which was exhibited in these dramas; but no two men were ever alike within. Supposing even that the faculties of the mind, the moral propensities, the instincts were originally the same in two twins, the minds and the memories would very soon

cease to be the same; for since the creation of man no two lives were ever the same, and therefore no two memories can ever be the same. The acquirements of education, the accidents of life, the emotions, the passions, the trials to which one man is subject, must necessarily, from the very nature of things, be very different from those which occur to another; and the consequence must therefore be, that even if two persons were to start in life alike in mind as well as in outward appearance, before a very short period had elapsed the two memories must be as distinct as those of any two individuals who had never been brought into contact and never had had anything in common in their lives. Although outward appearance may deceive, yet if you are acquainted with what has passed through the mind of a man, and another man were to come forward and say, "I am that man," you have only to ask him as to the events of the other man's life, those at least which must have remained impressed on his memory, and which, therefore, if he be the man, he must of necessity retain, to enable him to demonstrate that he is the man he says he is, or to enable you to pronounce that he is not. If his memory is not the memory of the man he seeks to personate, if he does not know the events of that man's life, if he does not know what thoughts, what feelings, what emotions that man's mind underwent, he cannot be the individual. Thus it is plain that we have in this a fair, open, and legitimate head of inquiry; and there is no part of this inquiry that will be more deserving of your most attentive consideration than that which relates to the answers of the defendant upon the examination he had to undergo as to his recollections of Roger Tichborne's life. In my opinion, and, I am quite sure, in the opinion of every reflecting man, there cannot be a better test of identity than that to which I am now referring, provided always that the inquiry be conducted under the terms and conditions which alone will insure the accuracy of the result; but these must not be lost sight of. Now you are in danger, in an inquiry of this nature, of being led into error by one of two alternatives: you may require too much; you may be satisfied with too little. You may require too much, if you expect a man whose knowledge you thus put to the proof to recollect every trifling individual occurrence of his life. Again, you will be acting unfairly towards him (I entirely concur with the learned counsel for the defendant in thinking) if you set the memory of a multitude of witnesses against that of a single individual. Take men who were together in the same class at school, or who were together in the same college, or in the same regiment; there are occurrences equally calculated to leave, or not to leave, an impression, which the one will remember, but the other will have wholly forgotten. There are things which pass every day, which makes no impression on the mind of one man, but which do

make an impression on the mind of another. Men dine at the same mess or table; something occurs in the course of the conversation; one man remembers it, the other does not think of it any more, and the next morning it is forgotten. One man recollects some events in his past life, more or less important, or more or less trivial, which some one else present at the same time, if you were to ask him about it, would have no knowledge of or recollection of at all. Of all the unfathomable mysteries which the human mind presents, there is none in my view so astonishing as the faculty of memory, especially in the matter to which I am now adverting: that is, how some things comparatively trivial remain indelibly impressed on the recollection, while others, far more important, fade away into the darkness of eternal night, and are totally and entirely forgotten. It would not be fair, therefore, to say, "Here are half-a-dozen people who were present with you on a certain occasion, and they all recollect a certain fact. If you do not remember it you cannot be the man." Still less just would it be if each of those individuals were allowed to pick out some peculiar circumstance which has remained impressed on his individual memory, and then because the man did not recollect all that the six persons recollected, it should be said, "Oh, you cannot be the man." I quite agree, we must not deal with a man in that way; it would be unfair and unjust to do so; but there are things which it is next to impossible any one should forget, and in respect of those things are entitled to require that a man should exhibit some knowledge, when you know that they happened to a person whom he represents himself to be. Yet even here we must be on our guard; for even things of importance, things that you would have expected to remain impressed on a man's memory, often pass away and are forgotten; but if you find that a multitude of circumstances such as you cannot reasonably believe that a man could have forgotten are ^{known} unknown, a very different case presents itself. Now, amongst the things likely to be impressed and to remain upon the mind there is perhaps nothing so certain to be remembered as things which were habitual, and which therefore the mind retains, not in the individual instances, but in the aggregate. When you were at school you went into school at a given hour; you had your meals at a given hour; you had your play at a given hour; you went to bed at a given hour; your holidays occurred at a given period. You were in a college, you went through a certain daily routine; you were in a regiment, you did the same; you were in a business and the hours of that business were fixed, as were the hours of recreation and rest. You do not remember the event of each day; you do not remember going into school, or to your duties, whatever they were, on each particular day, but the aggregate remains indelibly impressed on the memory. You can say from your general recollection, though

not from that of any given morning, that you went into school at a given hour, that you dined at a given hour, went to bed at a given hour. You know from the habit of months or years the hour at which you did a certain thing. We have here a fair test of knowledge, because that which was habitual is not likely to have passed from recollection. When, therefore, you come to test the mind and the knowledge of a man, as a means of determining whether he is the person whom he asserts himself to be, you must consider what it is you may fairly and reasonably and justly expect that a man should recollect. Making all due allowance for the uncertainty and imperfection of human memory, you may still get at certain results and establish for yourselves a certain fixed standard, which you may apply to determine whether a particular individual possesses the knowledge which should satisfy you of his identity. While there is the danger on the one hand of expecting too much, there is the corresponding danger of being satisfied with too little, of being too readily put off with idle excuses, and too readily ascribing to defect of memory ignorance which arises from the want of original knowledge.

Again, you may not only be satisfied with too little, in the way I have just adverted to, but you may also be satisfied with too little if you are led to accept, as true genuine knowledge, that which is not the honest production of the unaided memory, but knowledge derived from extraneous and adventitious sources. This is the danger into which persons too credulous have before now been led by imposture; thus it is that imposture has succeeded, at all events, for a time. One can easily conceive a case in which a man bearing some resemblance, possibly a close resemblance to the person of another, or to the features and lineaments of another, and coming forward to personate him, may impose on others by exhibiting knowledge, and yet may have acquired that knowledge from without instead of possessing it from within. Suppose, as in fact did once happen, that a man were to establish close relations and familiar intercourse with another in a foreign country, so as to become acquainted with all the secrets of his past life, communicated in the confidence of unsuspecting friendship, and then, that man having died, he were to come forward and say he was the deceased man. Suppose that in addition to personal communications the deceased man had left papers, journals in which he had entered the events and incidents of his life, and that the other with a view to imposture, possessed himself of such papers; suppose the man whom he sought to personate had been in the habit of writing letters in which he detailed the circumstances of his life, and that these letters fell into the hands of the man thus capable of misusing them; suppose that, as has happened in some of those cases of imposture to which I am only distantly alluding, the impostor fell in with persons who had been in the service of the man whom he

proposed to personate, and who were acquainted with some of the important incidents of that man's life, and that those persons, being either the willing confederates or the innocent dupes of the impostor, suffered him to get out of them a knowledge of things which enabled him to put himself forward to the world as the man whom he desired to represent himself: from all or any of such sources, such an amount of apparent knowledge might be derived as might deceive even the wary, and delude even the sagacious; and yet you might have at the bottom nothing more than a barefaced, impudent imposture. And another thing should be carefully watched, to prevent the possibility of imposition. If you find that the man in question has sources of information at command to which he can resort, and from which he may have obtained the knowledge he displays before you, and if you find that his knowledge is not uniform upon all the events or circumstances of the past life of the man he is representing himself to be—if you find that his knowledge corresponds with and is confined to the sources of information that you find him to possess and fails as to the rest, that is a circumstance which ought to be taken into account, in determining how far the knowledge he exhibits is true and genuine, or factitious and obtained from adventitious sources from without, instead of being the genuine production of the memory from within.

These, gentlemen, are the considerations which appear to me to present themselves at the outset, and which you will have to apply, if you think them worthy of your attention, as you proceed to deal with this case in the various forms in which the facts and the evidence present themselves. I shall have, I daresay, in the course of the observations which I shall have to address to you, I fear at some length, to advert again, with a view of their practical application, to some of the principles which I have been endeavouring to lay down for your guidance; but as matter of preliminary observation this will suffice, and I shall now proceed to do that which seems to me to be the very first thing that we have to deal with; that is, to present to you the events of the life of the undoubted Roger Tichborne, and from the materials we possess, and especially from the letters of Roger Tichborne himself, to portray to you in as vivid colours as I can—physically, intellectually, and morally—the undoubted Roger Tichborne, the identity of the defendant with whom is the question which you have to decide.

Gentlemen, Roger Tichborne was, as we know, the eldest son of Sir James Tichborne, the tenth baronet of that name. The family ^{Tichborne family.} was one of the oldest established families in this kingdom, the ancestors of Roger Tichborne having held the broad lands of Tichborne at a time anterior to the Norman Conquest. The family was one of

the old Roman Catholic families which adhered to the old faith when generally that faith was superseded by the Protestant religion in this country, but they were not uniformly Roman Catholics. Sir Benjamin, who, in the reign of Queen Elizabeth was member for the county of Southampton, and who, in the last year of that queen was the sheriff of that county, took a bold step on her death. As the books tell us, he immediately proceeded to Winchester, and without waiting for authority from anyone, proclaimed King James; and the consequence was that the king, pleased with this spirited proceeding, created him a baronet, amongst the earliest of the English creations. It is unnecessary to go further into the history of the family till we come to the grandfather of Roger Tichborne, Sir Henry, who died in the year 1821, leaving four sons—the eldest, Sir Henry Joseph, who succeeded him; the second, Edward, who afterwards took the name of Doughty; the third, James, who became Sir James, the father of Roger; and Mr. Robert Roger, who lived for some time in Hampshire, and afterwards lived at Bath. Besides these four sons there was one daughter who married an Irish gentleman of the name of Nangle, and who has been called before you. Sir Henry Joseph Tichborne died in 1845, from the consequences of a fall while out hunting, leaving six daughters but no son. There was a seventh daughter, but she died young, I believe in the lifetime of her father. All the six daughters married persons well known in the world. The eldest, Eliza Ann, married Lord Dormer, and she has been a witness before you. Lady Dormer had three sons, and one of them becomes somewhat material in this inquiry. The eldest was the present Lord Dormer; James was the second, and Herbert Francis the third. James Dormer is a person I shall have to advert to hereafter. The second daughter, Frances Catherine, married Lord Arundel of Wardour; she died in 1836, and her name will not occur again in the course of this inquiry. The third daughter, Julia, married Mr. Charles Thomas Talbot, and was the mother of the last Earl of Shrewsbury in that line. Then we have Catherine Caroline, who married Colonel William Greenwood of the Guards, and who has been a witness before you. Then Lucy Ellen, who married Mr. Townley, the second son of Mr. Townley of Lancashire. Then comes Emily Blanche, who married first Mr. Bennett, the son of the member for Wiltshire, and afterwards Mr. Higgins, whom we all well knew as a public writer. She had by the first husband a son John, whose name occurs in some of the letters of Lady Doughty, a name put to the defendant, but with which he was unacquainted. Lady Doughty in her letters speaks of “Emily” and “Johnny.” The second husband, as I have stated, was Mr. Higgins. All these ladies were consequently first cousins of Roger Tichborne, and, with

the exception of the one who is dead, they have all been called before you. Now Sir Henry Joseph, leaving no son, was of course succeeded by his next brother, Sir Edward. By the will of a maiden lady, Miss Doughty, who died in 1826, Mr. Edward Doughty had acquired very large estates in Buckinghamshire, in Lincolnshire, in Middlesex, in London, and in Surrey—estates of very considerable value indeed; and by the direction of her will, as a condition of taking the property, he obtained the royal licence and assumed the name of Doughty, and was known as Sir Edward Doughty, instead of being, as he otherwise would have been, Sir Edward Tichborne. He married the late Lady Doughty, a daughter of Lord Arundel of Wardour. He was born on the 27th of March, 1782, and died on the 5th of March, 1852. He resided, until a short time after the death of his elder brother, Sir Henry, at Upton, near Poole—a property not bought by Sir Edward, as Bogle, and, after Bogle, the defendant, have assumed and stated, but bought, with the land belonging to it, by the trustees under the Doughty will out of personalty belonging to Miss Doughty, and which by the will they were directed to invest in landed property. What was bought by Sir Edward was not Upton, as Bogle mistakingly supposed, but land in the immediate vicinity, and which then became apparently, no doubt, part of the Upton property, but was held under a different title, having been bought by Sir Edward for the sum of £13,700, but which is entirely distinct from the seat of Upton which was bought, as I have told you, by the trustees, and not by Sir Edward. I advert to it thus early, in passing, because to my mind it is an important fact connected with the property and estates; for I cannot understand, under the particular circumstances, how Roger Tichborne, unless his memory had entirely and completely failed with respect to the property of the Tichborne and Doughty estates, could have made so singular a mistake. Well, Sir Edward Doughty transferred his residence to Tichborne, but still kept Upton in hand; and we shall find that Roger Tichborne sometimes visited his uncle and aunt at Tichborne and sometimes at Upton; and it will be material as we go on to know the times of his visits at the one and the other residence, because it may enable us to form a judgment on some of the evidence which has been adduced in the course of the cause.

Sir Edward Doughty had only two children; the first a son, who died in early childhood, in the year 1836. He had no other son, his other child being the lady whose name has been so painfully introduced into this case, Catherine Mary Elizabeth Doughty, who afterwards became the wife of Mr., now Sir Percival, Radcliffe. Upon his death, leaving no son, Sir Edward was of course succeeded by Sir James, the father of Roger. It may be material hereafter to know the age of Sir James. He was born on the 3rd of October,

1784, and died on the 11th of June, 1862, when he was consequently close upon seventy-eight years of age. He married on the 1st of August, 1827, Henriette Félicité, the natural daughter of Mr. Henry Seymour of Knoyle. Her mother must have been a lady of some distinction. She was a member of the great old French house of Bourbon-Conti. I say so because on the distribution of the personal assets and property of the Duc de Bourbon-Conti, Mrs. Tichborne was held entitled in right of her mother in the distribution of the duke's property to no less a sum than 450,000 francs. They had four children, Roger the eldest, born on the 5th of January, 1829; then a daughter named Mabel, who died in early infancy; a second daughter named Alice, who died in 1839, when her parents were residing in the Rue St. Honoré; and, lastly, Alfred, who was born on the 4th of September, 1839, and who, therefore, was, within a trifle, ten years younger than the elder brother Roger. Afterwards, on his father's decease, in 1862, in the belief of his brother's death, Alfred assumed the title, but died on the 22nd of February, 1866. Now Mr. James Tichborne having lived in Paris from the time of his marriage until he succeeded to the title and the estates, all his four children, sons as well as daughters, were born at Paris. I said that Mrs. Tichborne, afterwards Lady Tichborne, was the daughter of Mr. Seymour of Knoyle, and inasmuch as in this case the evidence of the members of the Seymour family as well as that of those immediately connected in blood with Sir James Tichborne has been brought before you on this question of identity, I will just remind you in passing of whom that family consisted. Mr. Henry Seymour had two sons, both well known as public men, Mr. Henry Danby Seymour, the eldest, who represented Poole for many years; and Mr. Alfred Seymour, the younger, who is now member for Salisbury. There were three daughters. The eldest, Jane, Mrs. Bouverie, has been called before you. The second, Ellen, became Mrs. Sandford, but is now unfortunately no more. The last, Eliza, married one of the most distinguished men of the day, savant as well as soldier, I mean Sir Henry Rawlinson. Those of the family who are alive have been called before you, and of the value of their testimony you have had an opportunity of judging.

Life of Roger
Tichborne.

Gentlemen, I am about to enter upon the details of the life of Sir Roger Tichborne. It strikes me that it would be convenient to divide the life of the undoubted Roger Tichborne into five leading epochs. The first would be his life at Paris until between the age of sixteen and seventeen years; the second would be his life at Stonyhurst, which lasted from the middle of 1845 until August, 1848, rather more than three years, a period of paramount importance, as being the time during which he received all the education he was ever destined to acquire. The third period, which is by no means

an unimportant one, embraces the twelve months occupied in his preparation for military service—which will bring us to the end of October 1849. We have then, as a fourth period, his life in the army, extending from the time of his entering the army in October 1849 to the time of his quitting the army at the commencement of 1853; that again subdividing itself into two periods, the first, the time during which he was quartered in Ireland, the second the time during which he was stationed at Canterbury. Then we have, as the last period, the year which passed from his quitting the shores of this country in the month of March, 1853, to the time of his going on board the ‘*Bella*,’ and that ill-fated vessel foundering, which would embrace his voyage to Valparaiso and his wanderings in South America until his final departure in the ‘*Bella*.’ I think it will be desirable to keep those epochs distinct, and you will see the advantage of it by-and-by when you come to compare the statements of the defendant with the ascertained facts of Roger Tichborne’s life.

Now, Roger Tichborne, as I have said, was born on the 5th of January, 1829. The poor lad seems to have been doomed to misfortune from a very early age. He had the scarlet fever, which he took from his sister Alice, who died of it; and whether that had any permanent effect on his health I know not, but he seems to have been, or at all events his mother was determined he should be thought, a sickly boy, and they had recourse at a very early period to that cruel, and I cannot help thinking mischievous, practice of creating a factitious sore in the shape of an issue, and this poor little fellow was thus tortured when six years old. They kept open this abominable running sore with peas for three long years, until at last it was stopped. That was the first misfortune to which the poor fellow was doomed.

He was born when his parents were living in the Rue de la Ferme; and a question will arise as to the residences of his parents during the time they inhabited Paris, as it was made one of the subjects of inquiry when the defendant was put to the ordeal of showing what he knew of the life of Roger Tichborne. We are enabled to trace the residences of the parents by the addresses of the letters which Roger Tichborne wrote from the time he came to England; and before that time we know the residences from the statements of the persons connected with his early education and life. He was born in a street properly called La Rue de la Ferme des Mathurins, but which in common language, that name being a very long one, was more familiarly known by the name of Rue de *la* Ferme, not the Rue de Ferme (as the defendant called it), a mistake which no Frenchman could by possibility have fallen into. In 1833 they removed to a street called the Rue Neuve des Mathurins, so called, like the former, from there having been an old conventual establishment there of monks called les Mathurins. In 1835 they were living in a street

called the Rue Caumartin. In 1837, they removed to the Rue St. Honoré, No. 364, and there they lived until 1845—a period extending over eight years. The residence there at the earlier part of that time is proved by M. Châtillon, who was in the habit of attending there as the boy's tutor, and the later residence is proved by the Abbé Salis, who took up his abode in the Entresol immediately below the first floor, which was inhabited by the Tichbornes, and who, from his residing immediately below them, became intimate with them, as intimate as it was well possible for a man to be with a family. In 1845 they were in the Rue Neuve du Luxembourg, or, as we will call it for shortness, the Rue du Luxembourg. In 1848 we find them in the Rue Duphot; but before that year was ended they had removed to the Rue Castiglione, and in the latter street they remained from 1848 to the end of 1850. In 1851, 1852, and 1853, until they finally left Paris to take up their abode at Tichborne, they lived in the Rue des Pyramides. You will have by-and-by to consider how far between the ages of childhood and youth, up to 16 and 17, a lad remembers the residences of his parents. It is undoubtedly the fact that the defendant has exhibited a total ignorance of these residences with reference to time, if not to place; ignorance as to place with reference to some of the streets, ignorance as to time with reference to all. How far that comes within the principle which I endeavoured to lay down as a safe guide to us in inquiring of a person charged with personation is another thing; but these facts and dates will by-and-by become material, and therefore before quitting the history of Roger Tichborne at Paris, I have thought it right to bring to your notice the residence in the Rue St. Honoré, extending over eight years, from 1837 to 1845; in the Rue Castiglione, from 1848 to 1850; in the Rue des Pyramides, from the commencement of 1851 to the final departure of Roger Tichborne and the removal of his parents from Paris; the other residences are of shorter intervals, and, therefore, I do not dwell upon them.

Education of
Roger
Tichborne.

Now, Roger Tichborne was placed at an early period under the care of M. Châtillon, who became his tutor, attending on him daily, coming to the house the first thing in the morning, and not going away until the last thing at night; and this appears to have lasted over a period of six years, from the year 1834 to the year 1840. I am afraid poor Roger did not learn very much even under the careful guidance of M. Châtillon. I say under his careful guidance, for I believe, from what we saw of him here, and what the father says of him in his letters, that M. Châtillon was a respectable man, who did his best; but unfortunately his endeavours to communicate to this poor boy the instruction he ought to have received were thwarted by the incessant interference of a misguided, ill-judging mother. Mrs. Tichborne appears to have been a woman who had not had the ad-

vantage of a superior education herself, who cared nothing about letters, and who appears to have been very indifferent as to the education of her son. M. Châtillon says that he did his best, but that his best was very little, because, as he says, he was so interrupted in the lessons by the mother. Mr. Tichborne was perfectly sensible of the little progress his son was making. The boy did make some progress, but still it was very inadequate with reference to his position in the world; and the father was very anxious indeed to send him to school, but in this he was unceasingly thwarted by Mrs. Tichborne. I am sure I do not wish to follow the example which may have been set of saying anything harsh or offensive about any one if I can help it, still less about those who are dead and gone; but it is impossible to disguise from oneself the truth that this was a lady of a singularly perverse, unamiable disposition, and one who was thoroughly selfish in all that related to her affections. She was a woman who could love, and love warmly, but she was a woman who loved selfishly—that is to say, she loved with a view to her own gratification, and not with the more generous feeling which makes a person love with the view rather to the welfare of the object of their affection than to their own gratification. This nobler feeling was quite inconsistent with her nature. She was jealous and exclusive in the highest degree. She could not bear even the name of her husband's relations, because she could not endure that Sir James should bestow on them a portion of the affection which she thought should be all hers, to the exclusion of everybody else; and her husband being a man of large and warm heart and generous disposition, and loving his relations with an affectionate and tender love, they became to her objects of the most intense and profound aversion. She was thoroughly and essentially a French woman. She disliked England, and everything that was English; the more so, perhaps, because her husband's family and relations were all English. Sir James naturally felt that the future position of his son was to be that of an English country gentleman, one of the happiest and proudest positions that a man can be born to; the owner of large estates, with corresponding influence, with the means of doing good, of promoting the welfare of others, of giving employment to the industrious, and of using his wealth for the great and legitimate purposes to which wealth should be applied. He knew that one day his son, heir to large estates, would take a leading and influential position in the country where his ancestors had so long resided; he naturally felt that this might be a stepping-stone to a great public position, and he was therefore, above all things, anxious that his son should receive an English education. But the mother would not hear of it: she hated England; she hated her husband's relations; she could not bear the idea of her son's coming to England, which would bring him into contact with the people who were the objects of

her aversion, and her only idea was that of bringing him up as a Frenchman, giving him a French education, with the expectation that he would live in France, under her entire dominion and control, and, although he should succeed to English estates, would treat England and everything English as matters of secondary consideration.

Now, the amount of pain that this caused the father is exhibited in a letter which he wrote to his wife's father, as the only person to whom he could properly address his complaint, and to whom he wrote in the full and unreserved confidence of friendship and relationship. This letter lets one so entirely into the secret of what was going on in their *intérieur*, and the unhappy position of things there, that I think it right to read it. It is quite plain to my mind that poor Mr. James Tichborne was not, in any degree, a match for his wife. He was a man, as I have said, of a warm heart and generous disposition; but, unhappily, he laboured under the great disadvantage of a hasty, impetuous temper, which broke out upon very slight provocation, as we know from the quarrels which took place between him and his brother; and when he did break out into one of these bursts of temper, he was, unfortunately, in the habit of using very strong language; but the outbreak of temper was as brief as it was passionate (as is so very commonly the case with persons of hasty tempers), and when his temper had subsided, and kindly feeling returned, he knew no bounds to the atonement which he was ready to make. The wife, cool and self-possessed, not losing her temper, though she had a very bad one, always had the advantage in these encounters, and when the husband, anxious to restore domestic peace, sought reconciliation, it was only at the sacrifice of those marital and paternal powers which he had asserted his intention to exercise in order to protect his son against the evil consequences of his mother's mismanagement; and the result was that, while you have Mr. James Tichborne declaring he knows his duty as a father, and that nothing shall prevent his sending his son to England, the mother says—"Wait till to-morrow, and we will see whether he shall go to England or not;" and the result is that she gets the victory, and so this poor lad receives only a defective education, of which we see the consequences exhibited in his total want of everything in the shape of the knowledge that at his age he should have possessed at the time he went to Stonyhurst. Let me read this letter, which, as I have said, gives a thorough insight into the *intérieur* of this unfortunate family, and which might possibly be considered as misrepresentation on the part of a husband addressing complaints to his wife's father, were it not borne out to the very letter by Roger himself in the numerous instances in which he refers to his mother's conduct towards both his father and his relations.

"Paris, May 21st. My dear Seymour. By the time this reaches

you, you will already have received a letter from Mons. Châtillon which I requested him to write to you saying how very ill I was, and I lament to add that I am still suffering dreadfully from the horrid sciatica, and can get but little rest either night or day"—then he talks about the pain he has to undergo, and I pass that by because it is not material here—"You may with good reason complain of my great inexactitude in writing to you, mais quand on est aussi malheureux que je le suis, on est guère disposé à écrire; however, as all things in this low world must have an end, I am obliged to tell you plainly that I can no longer bear the cruel, unkind treatment I experience from Harriet, whose violence of temper seems to increase daily, and she seems to have no other idea in the world than making me as miserable as she possibly can, and in this, unfortunately, she succeeds to her heart's content, and I cannot but attribute my frequent indisposition to my wretchedness and anxiety of mind. After the severe affliction it has pleased the Almighty to visit me with, I feel daily how necessary it is for me to pass the remainder of my days in peace and quiet, and that, with her, is morally impossible, as Mons. Châtillon, who is but too frequently the object of her violent language, can vouch for as well as myself. To my family and relations she has long manifested the most bitter aversion, though I will maintain they have ever expressed themselves in the most kind and affectionate manner towards her, and abuses them as well as myself in no measured terms. The grand object she seems to aim at is to alienate me from all my family, and to make a Frenchman of Roger; this believe me I neither can, or ever will, submit to. Some time ago my brother Robert wrote to me to say that he was very desirous of seeing me, and would come and pass a fortnight with me, which, as you may imagine, gave me a very great pleasure, as I am very much attached to my brother, little supposing that his visit would have been attended with results so painful and humiliating to me owing to the rude and unkind conduct of my wife towards him—who was constantly abusing him, and quarrelling with him during the short time he remained here, so much so, as even to astonish both Mons. C. and myself, though we knew her so well, but she quite surpassed herself. Figure to yourself what I must have felt! I am obliged to own I was in some measure prepared for this, as she showed more than usual ill humour from the moment she knew he was about to pay me this visit, but not supposing it possible she would go to the length she did, I had not the heart to tell him not to come; I now regret it both for his sake and my own. I must now make you acquainted with my plans, and trust they may meet with your approbation, at the same time be assured, by dear Seymour, I shall ever feel most grateful for any advice you may give me touching the subject I am about to enter

upon, as I can assure you that I have the best opinion of your judgment and experience." Then comes the more important part. "My dear Roger is now, thank God, in good health, and the time appears to me as well as to others to be now arrived when it is absolutely necessary that he should go to school, and it strikes me, moreover, that if this plan is not adopted, it will be of the greatest possible disadvantage to the child, whose future welfare I feel myself responsible for"—Of course, as a father he would feel and would be bound to feel for the future welfare of his child—"Mons. Châtillon tells me candidly that he can be no further use to him, and indeed intended quitting us in the course of a few months; he has done everything he could for Roger, but he is thwarted and worried by Henriette till he can stand it no longer; he is very much attached to Roger, who deserves it, as he is an amiable and well-disposed child, and I flatter myself will get on extremely well at school." Then there are some passages relating to his wife's carelessness in dress, and dirty and slovenly habits, of which he, the husband, naturally complained. I pass those over. Then he writes—"Friday. I began this yesterday, but was too fatigued to finish it. My brother Robert intended remaining a fortnight with me, but was completely driven away by the treatment he experienced from my wife, and quitted Paris last Tuesday, and is by this time arrived in England. Henriette's violent hatred to my poor sister is such that I never asked her here during the short time my brother was with me, though I can positively assure you that my sister is perfectly innocent of ever having done anything to offend Henriette either in word or deed." Then he speaks about his own condition, his illness and pain, and then goes on: "I have not as yet decided where I mean to place Roger, I cannot decide until after I have consulted with Doughty; I expect he will recommend Prior Park, which establishment he writes me word is carried on upon a most admirable plan. Having passed the winter at Bath, he had frequent opportunities of visiting it in all its details, and approved of it most highly, so that the objections you ever entertained towards this establishment I am inclined to suppose no longer exist, and the system of education is reported to be very good, but of this more hereafter. I can assure you my dear friend," this poor man writes, "that it has cost me many a sigh and many a tear to have written you all these melancholy details of our intérieur; I am very low and out of spirits, which is very natural when I see all the hopes of my future happiness blighted and gone for ever. I have done everything that depended upon me for peace and quiet; but which, unfortunately, I have never been able to obtain, and I now seem to be an object of pity and compassion even to my servants; both Mons. Châtillon and my faithful Gossein have long witnessed my melancholy and dejectedness. I have not room here

to tell you all I could wish, but when we next meet I will mention some circumstances that will astonish you. In all probability I shall take Roger to England towards the middle of July, and, should it be agreeable to you and Mrs. Seymour, our first visit will be to Knoyle. I must apologise for this very long letter. I claim your indulgence to reflect upon its contents before you answer me. Our darling little Alfred comes on remarkably well, and is a beautiful child and the best-tempered fellow you could wish to see. My kind and affectionate love to all, and I beg to offer my sincere congratulations to Jane upon her entrée dans le monde, and pray that she may find everything *colour de rose*, which cannot fail being the case with such kind and affectionate parents as she is blessed with. And now adieu, my dear Seymour. Believe me ever yours very sincerely and faithfully
JAMES FRANCIS TICHBORNE."

For writing that letter the dead man has been called "a degraded slave." I confess I can see nothing but the tender anxiety of a loving father, with, at the same time, the weakness of a much too-indulgent husband. If any one can see anything else in it, be it so; but that is the view of the writer which, to my mind, that letter presents. At all events, it shows the mischievous influence and power of an ill-judging selfish mother, who preferred the gratification of having her child perpetually about her to having the future welfare and good of that child secured by proper education. To that mischievous influence Roger's future misfortunes are in a very great degree to be ascribed. Mr. James Tichborne in that letter expressed the firm resolve and determination of a father to exercise his power to send his boy to school, and to send him to school in England; but, it was not so to be; the mother prevailed, and his hasty resolves melted away before her cool, calm, determined attitude, and the boy did not go. A compromise, however, took place for the moment; Mrs. Tichborne yielded, as it seemed, in some degree, but yielded only to be victorious very speedily afterwards. The matter was compromised between the husband and wife, the father and mother; and it was arranged that, instead of going to school in England, as he should have done, to be brought up with a view to his future position as an English gentleman, the boy should be sent to a school at Paris—an excellent school, if he had been allowed to stay there. It was a school kept by one of the distinguished men of our day, at that time a school-master, now an exalted bishop, M. Dupanloup, the well-known Bishop of Orleans. If an institution for the purpose of education was likely to be well conducted and to lead to useful and satisfactory results, it might have been expected from one which was under the direction of such a man; but no sooner was the boy there than Mrs. Tichborne must needs interfere, and insist that he should be exempt from the ordinary discipline of the school, and form an excep-

tion to the general course of education ; that he should not learn too much, and that he should not be treated like the other boys upon which M. Dupanloup naturally said, “ Your son must be subjected to the discipline of my establishment and must be under my entire control and direction ; I will not undertake the education of any boy who is not ; and if you are not satisfied with your son being dealt with like the other boys, I must request you immediately to remove him.” She accepted the alternative and did remove him. Well, Châtillon had given the thing up ; he would not bear her worrying and disturbing interference any more, and they got him another tutor, La Forêt ; he could not stand it either, and went away very soon. Then there was a difficulty in finding a tutor, and the Abbé Salis, who was living in the same house, kindly took the boy in hand ; and according to the account which the Abbé Salis gave us of him, although the boy was very backward indeed, yet still M. Châtillon’s tuition had not been altogether devoid of fruit, and he knew a little something ; and when the Abbé Salis attempted to teach him Latin and put him to construe the “ Epitome of Sacred History ” in Latin, he says the boy did not do so badly for a beginner ; and if he had been placed in good hands, I think there is nothing to lead us to suppose that Roger Tichborne had not fair average abilities, and might not have been educated like anybody else. But the Abbé Salis, not being a schoolmaster, only did this out of kindness to the parents until they found a tutor, and then they got hold of a Mons. Jolival, and for three or four years the boy was committed to the care of Jolival, who appears, according to all the evidence, to have allowed him to waste his time in uninterrupted idleness, and did nothing with him but walk about Paris and take him to cafés and billiard-rooms instead of keeping him at home and instructing him. No wonder that in speaking of this Jolival afterwards in one of his letters, Mr. James Tichborne calls him “ that scoundrel Jolival.” Under this sad management this poor lad remained during the rest of his life at Paris till the age of 16½, and it was then only by stratagem that the father succeeded in withdrawing him from the mother and placing him at Stonyhurst. We will come presently to the circumstances under which he was taken to Stonyhurst, but there are one or two more subjects on which we must dwell for a moment before we leave the Paris life of Roger altogether.

We have been speaking of his secular education. A word as to his religious instruction. He was placed at an early age under the direction of the Père Le Fèvre, a preacher of repute at Paris. But as the latter lived at some distance from the Tichbornes, Roger was prepared for his first communion—for which with Catholics children are regularly prepared, as they are with Protestants for confirmation

—by the Père Humbert, one of the vicars of the Church of the Assumption, at which church, and not at the Madeleine, Roger received his first communion. Afterwards Père Le Fèvre was his confessor, Roger confessing to him at regular intervals so long as he remained at Paris. Such is the effect of the French evidence. It is to be observed that it directly contradicts the statements of the defendant, who knows nothing of the Père Humbert, and who says he received his first communion at the Madeleine; who does not know even the name of the Père Le Fèvre, and says the Abbé Salis was his confessor, while the Abbé denies that Roger ever confessed to him in his life.

Next, as to the acquaintances and friends of Mr. and Mrs. Tichborne; because as to them the knowledge and memory of the defendant has also been tested. It appears that Mr. and Mrs. James Tichborne, though very comfortably off, did not go much into society, nor did they entertain much; but there were certain intimate friends who were constant visitors and guests at the house—what the French call *habitués de la maison*; and first amongst these was an old retired officer, General Count de Mondreville, who appears to have gone in and out of the house as if it had been his own; who when taking his morning walk used to call as a matter of course, and have a chat with his old friends, and went there to dine when he liked without any invitation; there was always a cover for General de Mondreville, and Châtillon tells us that he dined there sometimes five or six times a week; so that he was on the most perfect terms of intimacy that one can imagine short of a brother's. He was particularly fond of Roger; made a pet of him, and used to make him presents; and he appears to have made him two presents, neither of which would have been thrown away like a child's plaything, but which would remain and constantly keep up the remembrance of the man who had given it. One was a gold watch; the other was a gold pin which he gave him upon the day of his first communion—a day among Roman Catholics to which great importance and observance is attached. Then upon that occasion M. de Mondreville made Roger the present of a pin we know from the fact that in 1847 Roger writes to his mother from Tichborne, where he was staying during his holidays, to request that she will send him over the pin which he says “M. de Mondreville gave me on the occasion of my first communion. It is a gold pin with a heartsease.” So that up to that period Roger Tichborne had a very distinct recollection of M. de Mondreville; and if he got that pin, as no doubt he did, and wore it, it would serve to keep alive the memory of his old friend. Another intimate friend was Mons. D'Aranza, a Spanish gentleman living at Paris, and who, though not quite so intimate as General de Mondreville, seems to have been a constant visitor, and to have dined

Acquaintances
at Paris.

very frequently indeed with the Tichbornes. Then comes the Abbé Salis, the "infamous priest," as the counsel for the defendant ventures to call him, whereas all I can say is that it struck me, so far as one could judge from appearances, that a more respectable and worthy ecclesiastic I did not remember to have seen. Whether he is entitled to the epithet which from his rich and inexhaustible vocabulary of vituperation the learned counsel applied to him, I do not know; certainly, it did not strike me so. However, whether the Abbé Salis was a worthy man or not, he was another very intimate friend of the Tichbornes. There are one or two other acquaintances, but not so intimate as those to whom I have referred. But there were other people in Paris with whom Roger Tichborne would, of course, become intimately acquainted. Mr. and Mrs. Nangle, his uncle and aunt, were living in Paris; they had four children, two sons and two daughters living with them, and it appears that although Mrs. Nangle did not go much to the house of her brother in consequence of the unkind and harsh treatment she received at the hands of her sister-in-law, the tutors used, I daresay by the direction of Mr. Tichborne, and very likely without the mother being always informed of it, to take Roger to Mrs. Nangle's, and then one of the Nangle boys would go out walking with them, and they would amuse themselves in the Tuileries Gardens. All these were persons with whom Roger Tichborne would become familiarly acquainted. There were also one or two other people he knew, amongst others Sir Clifford Constable, then a boy staying with his parents in Paris, who became his playmate and associate.

Servants.

Next, as to servants. If there is anything that makes an impression on a boy, it is the kindness and attention which an old servant in an establishment naturally shows to a child of the family. He becomes the helpmate, as it were, of his amusements, his games, his play; he mends his playthings for him; he does a thousand kind offices which a child, you know, appreciates, and when he grows up seldom forgets. If there was any old servant who had watched Roger's growth from his infancy to the age of adolescence, he would not be likely to forget him. Was there such a servant? Yes, there was—Gossein. Gossein became his father's servant, his personal servant, and the head confidential servant of his household, when Roger was a year old, so that he knew him in the nurse's arms; he saw him grow up from childhood to boyhood, to youth. He left, it is true, before Roger Tichborne quitted Paris, but he did not lose sight of him, for when Roger Tichborne afterwards, before his final departure from this part of the world, was at Paris, he went to pay a visit to him. He did not tell the old servant, whom he met in the street, to come to see him; he went and paid a visit to the man to show his regard and respect for him. You will judge for yourselves

by-and-by, whether you would expect that Roger Tichborne, even after the lapse of many years, would have entirely forgotten, as though he had never existed, all recollection of the man whom his father calls his "faithful Gossein." Gossein remained in the service from 1830 to 1844, a period of thirteen years, up to the time, therefore, when Roger was fifteen years of age. He was succeeded by a man of the name of Burden, who was called before you. Now, of course, the position of Roger Tichborne relatively to Burden was a different one from what it had been relatively to Gossein; because, as I have said, Gossein had seen him grow out of the nurse's arms, had seen him a little toddling child, and then had known him from boyhood up to half-youth. Burden saw but comparatively little of him, but still from the time Roger left Paris, in 1845, was in frequent attendance on him. On all occasions, when Roger was with his father in England, or when Roger went to Paris and visited his father, Burden paid the same attention to Roger that he paid to his father in the way of personal attendance and care. He says that on the very last night that Roger ever spent in Paris, Roger being then suffering from asthma or a throat complaint, he put a poultice on his chest and nursed him, and attended on him. Here, again, you must judge how far it is possible for a man to fail to recollect the person of a servant whose attendance he has had to that extent. It was on the occasion of that visit to Paris that Roger paid the visit to Gossein to which I have just now adverted.

There is one more subject connected with the French life of Roger Excursions. to which I have to call your attention, namely, the excursions which the family were in the habit of making every year. It seems that Mr. Tichborne, sometimes accompanied by his wife, sometimes not, was in the habit of making a trip or excursion every year during the summer months. He usually left Paris in the month of June, and after remaining away June, July, and August, returned to Paris in September. In 1839, Mr. Tichborne, with Roger and Châtillon, went into Brittany, to a place called Pornic. An incident of their stay at Pornic has formed a marked feature in the history of this case and in the examination of this defendant. I shall come back to it hereafter, when, in connection with the life of Roger, I deal with the statements and recollection of the defendant, more particularly as to what relates to the accident that happened there. Suffice it for the present to state that, on the occasion of this visit, there occurred the accident to which so much importance has been attached. Pornic is situated on the sea, not, as the defendant supposed, near a lake. It is a small seaport, but to which persons also resort for the purpose of sea-bathing; and it appears that Châtillon and Roger were in the habit of bathing at the place appropriated for that purpose. On one occasion they had come out of the water, and Châtillon was dressing;

the boy had already put on his clothes, when a vessel coming in under full sail attracted his attention, and he jumped up upon an eminence, a prominent, jutting portion of the rock, to watch the ship, calling out to Châtillon to look at this vessel which was coming in. While he was doing this, his foot slipped and he fell and struck his head; and it is alleged on the part of the defendant, that he had his head cut by falling against the projecting rock, that it left a scar upon the back of the head, to which scar he points and says, "There is a scar corresponding with the scar that would have been occasioned by that accident: you can have no better proof that I am Roger Tichborne."

This is, no doubt, a circumstance deserving of serious consideration; because, if Roger's head was cut by that fall, and if the defendant can exhibit a scar apparently resulting from a similar wound, it is a strong fact in his favour, though not conclusive, because a man might get a cut on his head from any other cause. You heard the other day of the cut on a boy's head from an oyster-shell thrown by another boy, and this cut may not have been produced by a fall from a rock, especially if an eye-witness says there was no wound occasioned by the fall which would leave a scar. But all that is matter for future consideration. Suffice it now to mention that Sir James, and his son, and Châtillon went on that occasion to Pornic. The next year the whole of the family, including Lady Tichborne, went to the Pyrenees; that is in 1840. Gossein gives an account of those journeys, and says that the next year they went to the Pyrenees again. The next year the family went to Germany. Thus, each year, in the years leading up to 1843—1840, 1841, and 1842—there was an excursion, and in each of those years Mrs. Tichborne was one of the party; they went twice to the Pyrenees and once to Germany. In 1844 Gossein tells us that the father, and Roger, the nurse, and the little boy, Alfred, with Jolival the tutor and himself, all went to Brittany; and in 1844 the same party made the same journey to the same place. In the last year, 1844, Roger writes to his mother, who had remained at Paris, giving her an account of an expedition they had made to Jersey by the steamer; he refers to his brother,—I shall have to come to this again by-and-by,—by the name of "Belle Tête," which no doubt was a familiar term of endearment which the mother was in the habit of applying to her fair-haired boy, who appears to have been, according to all accounts, a remarkably pretty child, with one of those curly heads of hair which are so attractive in children. That was the last excursion which was made before Roger came to England.

Coming to
England.

In June, 1845, Sir Henry Joseph Tichborne died, and it occurred to Mr. Tichborne that this was a good opportunity, without incurring

a furious storm and tempest with his wife, to steal the boy away, as it were, and to bring him to England, and put him to school. I suppose he thought that when the thing was done, it would be more easy to bear the brunt of Mrs. Tichborne's reproaches than it would be to brave the storm of her wrath by endeavouring to take the boy and drag him away from her when he was at Paris. He accordingly brought him over without saying a word of what he intended to do, under the pretext of the boy's attending his uncle's funeral; but when he got him here, he took good care that he should not go back to Paris; and having consulted with Mr. Seymour, at whose house in town he went to stay after having attended the funeral of Sir Henry, he determined, with the concurrence and approbation of Mr. Seymour, to place the boy at Stonyhurst; and he took him there accordingly. We know from a letter of Mr. Seymour to Mrs. Hopkinson, his mother-in-law, and from an entry made in Lady Rawlinson's diary at the time, that the father himself took the son to Stonyhurst (although this is a circumstance which the defendant ignored and positively denied), and placed him there. They left London on the 30th of June, 1845, for Stonyhurst, and arrived there on the first of July. They were received by the head of the establishment, Father Barrow, who was Rector at that time; but Father Barrow was in very infirm health, and instead of doing what it appears was usually done by the rector of the establishment when a father brought his son down to Stonyhurst to place him there—instead of taking them over the establishment himself—he handed them over, owing to his bad state of health, to the Reverend Father Waterton, who at that time was the prefect of the philosophers, in which class or body Roger was about to be placed, and Father Waterton took them over the whole institution. Before he did that, the rector sent for the Viscount de Brimont, who was a cousin, somewhat removed, of Roger, and who tells us it was owing to his being at Stonyhurst that Roger was placed there, and M. de Brimont accompanied the party in going over the establishment, and afterwards they all walked out together and dined with Mr. Tichborne.

Now the placing of Roger at Stonyhurst was with the entire, and ready, and joyful concurrence of Roger himself. It is quite plain from the boy's own letters that he was fully sensible of the disadvantages under which he laboured, and of the mischievous consequences of the life to which he had been subjected; and he rejoiced with all the warmth of a youthful mind to feel that he was emancipated from a control and influence which were only productive of mischief and disadvantage to him, and that he would now have an opportunity of improving himself and making some amends for the defective education which he had thus far had. He writes to his mother on the very day after he arrived at Stonyhurst. The letter is

in French, but we have the translation of these letters by Mr. Markheim, and I will read the translation. The letter is of the 2nd of July. "My dear Mamma,—I entered college yesterday July the first. We came at half-past twelve from Preston; when we arrived we went to see the superior, who is a very agreeable man, and received us very well; he showed us the establishment with great pleasure. The establishment is magnificent, the park very extensive, and one thing which is very beautiful is the avenue by which one arrives at the college, which is nearly two miles long, and is very large. The appearance of the house is magnificent; there is a very beautiful church, besides several chapels. I am very well where I am. I shall be in the class of philosophy. I have a room, and shall work in one room, and shall follow the courses that they follow in the college. I shall be under the direction of Father Waitersone, who you used to know, and who will be my superior. I am very well pleased where I am, and my health, far from being impaired, stands much fatigue, and I gain health and strength. Adieu, dear mamma. I embrace you with all my heart, and be always sure of my unbounded obedience"—which is what she so strongly inculcated—"Your very affectionate son, ROGER C. TICHBORNE. I pray you, dear mamma, not to make yourself uneasy about the part papa has taken." Now, what the state of mind produced in Lady Tichborne was when she came to hear of the bold step which her husband had taken in placing her son at Stonyhurst instead of bringing him back to Paris, may be best gathered, I think, from what she did. I should have been very sorry to have been in the place of poor Mr. Tichborne when he got back; but Roger was far away, and she could not visit him with the same manifestations of displeasure, but she did what she could. The poor boy wrote to her a series of letters; but for twelve whole months she never took the slightest notice of him. He had been the willing subject of his father's authority, as a boy should be; he knew that what his father had done for him was done for the best, and he had gladly acquiesced in it; but so angry was the mother, that she visited him with her displeasure in that form—she never took the slightest notice of him or of his letters for twelve months. She appears to have done more, to have sent over Jolivalt for the purpose of getting him away; for I find that her husband, in a later letter written in the year 1857, when he is reproaching her with some matters connected with pecuniary affairs, says this:—"I say nothing of the sums of money you thought proper in my absence to lavish upon that scoundrel Jolivalt in purchasing pictures, and other sums of money you furnished him to pay his journey to England to drag Roger away from college"—from which it would appear that she actually went the length of sending this man Jolivalt over to England to get Roger away from the college, in defiance of her husband and his marital and parental

authority. If she made any such attempt, as from this language one would be led to infer she did, it did not succeed. The boy remained; he wrote to her for twelve months and got no answer, and at last he wrote her a strong, resolute, determined letter. I do not know why, but this letter, though put in, does not appear to have been translated by Mr. Markheim; however, if you will trust to me, I will translate it as I go along. I should here observe, what I observed early in the cause, that it is impossible to conceive anything more deplorable than the ignorance of French grammar and spelling exhibited in these letters of Roger Tichborne. Whatever M. Châtillon had done for him in the way of teaching him to spell and write, or in teaching him the first elements of grammar, must have been entirely lost. There is no porter in the street, no servant, however humble, in a French establishment, who could write worse than these letters of Roger are written; and you will find that as soon as he had learnt the rudimentary rules of English grammar, and had become at all familiar with English orthography, he takes to writing English to his mother. He did not write to her in French beyond the time when he found he could write English. However, one can make out the meaning of the letter, and I will read it to you in English in the best way I can. “My dear Mamma,—I cannot explain your long silence with respect to me in the different points of view which I am about to detail to you, and which are things which you ought to know as well as I do. You must not think that I desire to be wanting to you in the facts which I am about to recall to you, but it is necessary I should explain them for my own satisfaction, and to have some explanation as to your silence in respect of me. Since I have been at college I have written you many letters which have remained without an answer, but at length it is now time that I should come to the subject on which I am writing to you, and which I pray you not to take amiss, for there are explanations which are necessary. In the first place, you have opposed my coming to England, a thing which you have been very wrong to make any opposition to, but it is now done, and one must not always look to the present, but also to the future, which is by far the more important. In the second place, you have wanted to set me at enmity with my family by all sorts of means, but I must tell you I have never believed what you have thought proper to tell me on this subject, though I sometimes may have appeared to think as you did. In the first place, you said I ought not to go to college, but I tell you openly and plainly I went of my own free and entire will, and it was the thing of all others that was the most necessary, and still more, I greatly regret that I was not placed there earlier, for then I should not find myself in the situation in which I am at present”—I suppose he felt very sensible of how backward he was in point of education, and how seriously its effect told on his position.—

“ You have always wanted to make me pass for being in delicate health, and you have said it so long and so often that you have at last succeeded in making my papa believe it. You know very well it was not the case. Another thing which I ought to state ; you may remember I detested the life you made me lead when I was in Paris, and how I sighed to be delivered from it, and I assure you I had the most thorough determination to emancipate myself from it as soon as possible. The opportunity presented itself, and you may well think I availed myself of it with the greatest possible joy. Do not be offended with me for all the things I have reminded you of ; they are facts which are only too well known to you, and it is difficult to deny facts. I beg you to write me some lines to give me an answer upon all that I have said to you, and if you can tell me I have said anything which is not the truth, I will then give you further explanation upon any of the subjects contained in my letter, and if you do not answer me then, I can say that all I have said to you is perfectly true, and that nothing can be more true. I am your affectionate son, ROGER CHARLES TICHBORNE. I beg you most earnestly to deliver the letter which is contained in this to M. l'Abbé Salis.”

Such is the letter he writes to his mother after a year of silence on her part, and it appears that that letter produced an answer to him, and a contemporaneous letter to the president or rector of the establishment of Stonyhurst ; and in that letter Mrs. Tichborne appears to have been so ill-judging as to enter into the details of her grievances against her husband's family, if not against her husband himself. This letter to the superior, I presume, was shown to Roger, in consequence of which he writes the following letter to his mother : “ Dear Mamma,—I was very sorry that you did not understand the meaning of the letter I wrote you some time ago. I had hoped that you would understand better than you did what that letter meant ; for I can assure you I was very much astonished not to receive any answer after all the letters I wrote you (and this during a whole year), and it was that which led me, however reluctantly, to write to you as I did, in order to have some explanation from you and to know what were your grievances against me. In the letter I received from you yesterday was a host of things which I knew perfectly well, and you don't say a word about what I would have wished to know. Amongst other things, I wished to know if that nurse had left at last, for then I should look upon your peace as secure, for the slanders and calumnies of that woman are, as you well know, inexhaustible. Don't mention to anybody that I have told you this. I thought you showed the most inconceivable indiscretion in talking of your private matters, as you did in your letter to the college rector. I never thought you could have spoken as you did, and expose in broad daylight the dissensions which exist between you

and my family (as alleged by you), and so make all the world a party to your own private matters, and matters, too, which should remain concealed from all the world, and I say without fear of contradiction from any one, that you will always lose by so doing more than you can gain, for you must be well aware that one is often sorry for having said too much, but seldom for having said too little;”—there is a good deal of sense in that—“I do trust that in future you will not so compromise all those persons who have never spoken a word against you, as you believe. And, indeed, in so doing you compromise yourself, because it proves that you cannot keep family secrets, which is of the utmost importance, to preserve the honour and character of any family. I have nothing more to say at present. I hope you will answer me as soon as you receive my letter, and then I could tell you more about the subjects I have mentioned in it. Kiss Alfred lots of times for me, and thank M. l'Abbé Huet for his kind remembrances, and remember me to him. Your very affectionate son.”

There are one or two more letters which I will now read, because they close the Stonyhurst correspondence with his mother. On the 2nd of September in that year he writes to her thus: “I received your letter yesterday morning, and I hasten to reply to it as soon as possible. I was singularly surprised to find what I did find in your letter, especially such an inconsistency as that which appears at the end of the third page and the beginning of the fourth, and moreover there is no end to what you say against my uncles and aunts, and further, you charge them with a host of things they never thought of. But it has always been unfortunate that you should fancy a number of things which have never existed, and which have only made you unhappy. I shall stop short, for I could dwell on this subject at much greater length, but as I know it would annoy you, I shall say no more.” This letter was written from Tichborne, and he adds, what I have no doubt was by no means pleasing to Lady Tichborne: “I came here about four weeks ago. I am enjoying myself. I go out shooting, and I send you the first fruits of my sport consisting of three partridges which I hope you will like, which would give me great pleasure.” To this letter his father appends this significant post-script—“Dear Roger is in perfect health, and enjoys his shooting excessively, he sends you three fine young partridges—les premices de la chasse. He is in great want of his watch which he left with Steinman to be repaired, and wishes to have it sent him with the pin which Mons. de Mondreville gave him. Alfred is full of health and beauty; try and get rid of that absurd idea that their uncles set them against you, but we all regret the violence of your antipathy against them, which is the cause of much misery to me and of great displeasure to Mr. Seymour.” Then there is another letter from Roger, of

which the only important part is the postscript. "I think you have the pin which M. de Mondreville gave me on the day of my first communion. I am very anxious you should send it to me. You remember it is a heartsease" (*Pensée*). Another letter, written September 20th, 1846, closes the series of French letters written to his mother, which, you will observe, continued to the middle or end of 1846. After that time he writes to his mother in English. In the course of a year or eighteen months from his first arrival at Stonyhurst his English had considerably improved, which enabled him to write with greater ease in English than he could do in French. Now these early letters are by no means unimportant: they are the key to much in his after conduct, as showing that, at this early period, in the first place, he thoroughly appreciated his mother's character, and, in the second place, was profoundly sensible of the injustice of her aversion and hatred towards his father's family; next that he was perfectly conscious of the disastrous effect which her injudicious treatment had had upon himself, and, lastly, that even thus early he had made up his mind to that which, to the last hour of his undoubted existence, was the ruling guide and determination of his conduct, namely, not to submit to his mother's influence; not to allow her, although he might be expressing a profound sense of the filial duty which a son owes to his mother, in any way to control, direct, or influence his conduct and actions. You will find, in future letters of Roger Tichborne, and in future portions of his conduct, how thoroughly that determination prevailed with him, and influenced him to the very end.

Life at Stony-
hurst.

Gentlemen, we have now reached the time when Roger Tichborne was settled at Stonyhurst. We find that he was placed among that portion of the residents at Stonyhurst called the Philosophers, and it is necessary we should have a clear and distinct understanding of what is meant by that term. I am very much disposed to think that upon the former trial, when the defendant was under cross-examination, a good deal of confusion was created by an omission in this respect. We ought to distinguish between the philosophers as a class at Stonyhurst and the general body of students receiving their education at that institution. It seems to have been thought on the former occasion that in many respects students and philosophers were subject to the same discipline and the same rules. It is not so; they are two essentially distinct bodies. Stonyhurst is an institution (at all events, it was then, and I suppose it is not materially different now) in which an attempt was made to combine a school with a college properly so called. Its primary purpose for education was that of a school; the number of those called philosophers was comparatively very small, and the primary purpose, as I say, was a school.

Every boy staying there long enough passed through seven classes. Entering at a convenient time, the beginning of the collegiate year, which was always the beginning of October, the boys were placed under the guidance of a master, who took the same boys through the seven classes—known by the names of Elements, Figures, Rudiments, Grammar, Syntax, Poetry, Rhetoric. Those were the names given to the seven classes, not, I apprehend, with reference to their particular studies, but simply as names to designate the particular classes. When a lad had passed through these seven classes he had come to the top of the school and had done with it. The time had come to leave, and he left. But it seems that, with reference to the young men who were destined for the church, means of education were provided which enabled them to obtain that most essential but intermediate knowledge which occurs between the learning of a school and the preparation for a profession, whatever that profession may be; and accordingly lectures were provided at which the future Jesuit priests might be well armed with all that is necessary to develop the powers of the intellect, and to prepare men for the future warfare of the world. The exact sciences, mental science, moral science, were taught to these young men who had ceased to be schoolboys, but who had not yet been placed in a position to enter upon a profession; and accordingly amongst the Jesuit fathers there were some who as professors undertook to lecture on those various subjects, and these young men, before entering on their noviciate, thus studying philosophy in its various forms, received the name of philosophers. That which was first established for the benefit of those who were afterwards to enter into the priesthood, was extended after a time to those who were not intended for the church, but for other professions, or for no profession at all; and accordingly a class became established called philosophers, because they pursued the same course of philosophical study as the young men intended for the priesthood had before pursued. They were called philosophers because they were supposed to devote themselves to the study of that which is properly called philosophy. After a time the benefits of this part of the institution were extended to others who really did not care about studying these loftier sciences, mental or moral—philosophy, mathematics, chemistry, or other branches of science. Foreigners who came to this country for the purpose of studying English were glad to take advantage of such an institution as Stonyhurst, where they could have all the convenience and advantages of a collegiate life; and persons of that description, foreigners especially, were allowed to enter the class of philosophers at Stonyhurst, although their ignorance of the English language, which they had first to acquire, and which it was their object to acquire in going there, might render them wholly unable to follow the course of study. Even English-

men, whose knowledge of the language would have enabled them to pursue the course of study to which as philosophers they should have devoted themselves, were allowed, so long as they thought proper to observe the discipline of the college, its rules and regulations, and behave themselves with propriety, to have the same advantages, though, like Mr. Mannoek, they might not devote a single half-hour of the time to study. These young men were, of course, treated on a different footing from the school-boys: no longer boys, but young men, they were allowed more discretion as to what they would do in the way of study. If they chose to study, there were the opportunities, there were the professors reading lectures in all those various departments and branches of science. If they liked to go and hear the lectures, and to profit by them, so much the better; if they did not, there appears to have been a latitude allowed them in this respect, and they were allowed, so long as they behaved themselves with propriety, and submitted to the rules and discipline of the place, to exercise their own discretion as to whether they would learn anything or not. Such appears to have been the nature of the establishment at Stonyhurst as regards the philosophers; they mixed very little, if indeed at all, with the boys, with the school; occasionally they joined them in some game, now and then a game of football, in which all joined—possibly a game at cricket in the same way—but they had their own place of residence; they had their own hours, their own amusements; generally speaking they did not mingle with the others at all. It is very much the same thing as though in the vicinity of Westminster School there had been established a London University, and an attempt had been made to combine the two in the same institution. If you can conceive a public school existing where there is a university, both being under the same control and direction, the one subordinate to and leading up to the other, but under altogether distinct regulations and rules, that is exactly what you would find at Stonyhurst. The mistake, I think, was made on the former occasion of not sufficiently discriminating between these two distinct and separate branches of what is undoubtedly one and the same establishment. Whether the then state of things was likely to be profitable, as leading to those educational results which are desirable, is a matter we have nothing whatever to do with; what we have to do with is to see what Stonyhurst really was at the time of Roger Tiehborne. Now he was placed in the class of philosophers, which implies a different residence from the residence of the scholars. The scholars live in what is called the college. The philosophers when Roger joined did the same, though in a different part of the building; the young men destined for the priesthood lived in what is called the Seminary. But, in the October after Roger Tiehborne joined, the residence

was changed ; the philosophers were removed from that portion of the college building which they had previously occupied ; the young men intended for the priesthood were transferred to it ; the seminary was appropriated to the philosophers ; there they all lived during the remaining period that Roger Tichborne was at Stonyhurst. You will have, by-and-by, to decide for yourselves whether Roger Tichborne did live with the rest of the body to which he belonged ; whether he was placed in the first instance in the college at Stonyhurst, and was afterwards removed and transferred to the seminary with the rest of the philosophers, or whether you believe the statement made by the defendant, that upon his first joining Stonyhurst he was put in a cottage, where he lived for twelve or fifteen months apart from the rest of the body to which he belonged. It involves several very remarkable facts and considerations of a peculiar character to which I shall have to draw your attention by-and-by. For the present it is enough to state that Roger Tichborne went to Stonyhurst and arrived there on the 1st of July ; that he was placed among the philosophers ; that he went away at the commencement of the vacation—that is the 1st of August ; that he returned in the middle of September, before the vacation had come to its termination, I presume from a laudable and honest anxiety to return at the earliest possible moment to the studies which he so much needed. Be that as it may, we know he did return early in September, and we know he did remain at Stonyhurst until the 1st of August, 1848. Whether that was the proper time for him to leave is another question which you will have hereafter to consider. In the meantime, there had begun that correspondence with his aunt, Lady Doughty, which forms a remarkable and all-important feature in the history of this case. Without a paternal home in England, he would either have to go to Paris for his vacation, or trust to the kindness and hospitality of his friends and relations in this country, and of course, there was no one to whom his father would more naturally look for protection and kindness to his son than his brother ; and as Sir Edward Doughty was at this time in possession of the Tichborne mansion, with all the opportunity for enjoyment which such a residence would afford to a young man coming home from college, it was natural that Roger should pass at all events a part of his vacation every year at Tichborne. On the other hand, there were his relations on the Seymour side—Mr. Seymour, with his charming residence at Knoyle, willing and ready with his wife and children to receive with open arms young Roger as their relation. Although the relationship—and that forms one of the peculiar difficulties which existed with reference to Roger and his father and mother and the Seymours—was not ostensibly and formally acknowledged, it was recognised in respect of all offices of kindness and affection and love, as though it had had the sanction of legality attached to it. Roger's vacations were

therefore passed between the two houses of Tichborne and Knoyle, and it is important to observe what those vacations were, for a good deal of the inquiry addressed to the defendant had reference to this particular matter. There are few things, I apprehend, which in after years will be more vividly retained in the remembrance of the schoolboy than the period of his holidays. Now the holidays at Stonyhurst were very peculiar. As we know, at most schools there are two vacations, more or less of equal length, and at most schools there is a third of shorter duration. Christmas, the time for family gatherings, summer, when the enjoyment of life is greatest, are the two great periods for boys and youths to return home and rest from work. Easter affords also a proper opportunity for a boy to come home, and again embrace his parents and relations. But at Stonyhurst it was not so: they allowed only one vacation in the year, and it commenced regularly with the month of August. For the boys at the school it lasted six weeks; they had to return in the second week in September; for the philosophers it lasted two months; their period of return was the commencement of October. But there were two other holidays which I may call internal holidays, as distinguished from external ones, because they were holidays within the school and institution itself—from two to three weeks at Christmas, and a couple of weeks at Easter. They did not then go home, but work was suspended; they were allowed to amuse themselves in the best way they were able, enjoying entire rest from work, and such recreation as they could find within the walls and precincts of the college. Sometimes, indeed, the philosophers, if they wished to make a short visit at Christmas or Easter, could do so; but, generally speaking, they remained at the institution; and with reference to the rest of the establishment it may be stated as an undoubted fact that there were no vacations when the boys could leave the establishment and return to their respective homes except the vacation in the summer, which began on the 1st of August, and continued for the period I have mentioned. In August every year Roger went either first to Knoyle and then to Tichborne, or first to Tichborne and then to Knoyle, and after his vacation at Tichborne in 1846, commences the correspondence with Lady Doughty, to which I am about to direct your attention.

Correspondence with Lady Doughty.

Gentlemen, the correspondence in question begins in the year 1846, when Roger had returned to Stonyhurst, and it affords us, as it seems to me, from its commencement to its close, a very safe guide by which to familiarise ourselves with the life and character of Roger Tichborne. I am afraid that perhaps you will think me a little tedious in taking you as much as I propose to do into this correspondence; but, to my mind, the letters which passed between Roger Tichborne and Lady Doughty, as well as between Roger Tichborne and Mr. Vincent Gosford, are the life and soul of this inquiry. They afford

us the means of fixing dates, of ascertaining events, and, above all, they afford us the means of a thorough insight into the character, views, purposes, and intentions of Roger Tichborne, which you could get from nowhere else.

As I said, the correspondence begins in 1846. He had returned from his summer vacation to Stonyhurst, and Lady Doughty opens the correspondence by saying that she had promised to write to him, and now wrote to fulfil her promise. Of course, these letters being very numerous, I shall not think of troubling you with the gossiping details of family life and circumstances, and the common-place events of the day, such as would be mentioned in letters between an aunt and her nephew; it is only where the correspondence touches matters of real interest and importance that I shall think it necessary to trouble you with them, but to these passages from the letters, or to entire letters where it so happens that they really go to the very pith and marrow of this inquiry, I must direct your attention, and you must bear with me if I ask you carefully to attend to them. I shall not trouble you with the letters of 1846, until we come to a letter which I think has reference to one of the distressing incidents which must have disturbed the even tenor of poor Roger's days. He was staying at Tichborne Park in the holidays of 1846, and his father was there too, when it appears that Lady Tichborne—Mrs. Tichborne then—took it into her head, uninvited and unexpected, suddenly to present herself at Tichborne. Her feelings towards the Tichborne family were perfectly well known. When Mr. Robert Tichborne came back from Paris after his visit in 1840, where he had been ill-treated and insulted by Mrs. Tichborne and induced to leave much earlier than he had intended, having abridged his visit on that account, he naturally told his story; and of course he stated also what were the terms upon which Mrs. Tichborne stood with reference to his sister Mrs. Nangle; that the latter had not been asked to meet him at the house of her brother, because the brother's wife would not allow her to come there, or treat her with decent civility and respect. Accordingly, these things being known at Tichborne, one can easily understand that Mrs. James Tichborne did not stand in the best light, or in the most favourable odour with the Tichborne family. They would naturally resent the manner in which their relatives had been treated at Paris, and although they always received Mr. James Tichborne and his son with open arms, and had done so on this occasion, Sir Edward Doughty was not prepared to open his doors to the reception of Mrs. Tichborne, and accordingly she was refused admittance, and had to return to the inn at Alresford. Whether Mr. James Tichborne took that amiss, or whether afterwards, having quarrelled with his brother on some other ground, he took it up as a grievance, I do not know; but it is quite certain that Mr. James Tichborne, whether on account of that cause,

or on account of the trivial quarrel Mr. Gosford told us of, about the priest having the use of the pony, when hot words ensued, and Mr. Tichborne left the house in disgust—I do not know; but I find that Lady Doughty, writing to Roger, says, “Your uncle is projecting other improvements which I hope, please God, you will be allowed to see next summer by spending a part at least of your holidays here; we both felt very much, after our all being so happy together, that your father ended by being displeased, but it could not be helped.” It appears that from that time to 1850, Mr. Tichborne never set foot within Tichborne House, but his son spent part of his vacation there regularly.

There are one or two letters written by Roger to his mother at this period from Stonyhurst, which are also worthy of attention. They are written in 1847. He now begins to write in English, and as he preferred to speak French, and the mother, being essentially a French woman, preferred to speak French also (we know in the family they always spoke French), he would naturally have written to her in French, were it not that he must have been perfectly conscious that he had at that time acquired a far greater proficiency in writing English than he possessed in writing French; hence we find him from the middle of 1847 always writing to his mother in English, and now a marked change takes place in the commencement and end of his letters. The “mamma” of the boy is changed into the “mother” of the man; he ceases to write “mamma,” and always from this time forth to the day of the last letter he wrote before he went on board the ‘Bella,’ he always writes “mother”—a fact to be borne in mind hereafter. This is his first English letter. “June 24th, 1847. My dear Mother.—I was sorry to see that you trouble yourself so much about my health. My health has been always good since I came here, and for that reason I wish that you would not trouble yourself so much about it. I don’t know why L’Abbé Salis has never answered any of my letters, because I suppose that you gave him the letters that I addressed you, and which were for him, but in all cases I find it very strange of his part.” Now you will find in these early letters numerous instances, and you will find them occasionally to the very last, in which you have the simple translation of a French phrase, which sounds strange in English, and which would make you suppose the man did not know how to write English. In fact, he was doing in writing what he commonly did in speaking, as some of the witnesses have told us, namely, thinking in French and translating into English. Here is an instance of it—“In all cases.” We should say “in all respects,” or “at any rate,” or “at all events.” But we have here the literal translation of “*dans tous les cas*”—“In all cases.” He writes, “of his part”—“*de sa part*”—instead of saying “on” his part, as we should do. He continues, “I should like to know what became of Mr. Dumasures; I should fancy that

he is priest now"—we should say "*a* priest," the French say "*pretre*" without the article—"I wish very much to have la vie de Duquayhourin et la vie de Colbert, because I have no more French books to read at present"—this shows he was not giving his time up to mere idleness and gratification of vicious or bad habits, as the learned counsel for the defendant suggests. He wants to have French books, and books relating to serious and interesting subjects wherewith to occupy his time—"I pray mention what I said to the Abbé Salis"—then we have a phrase which you will find characteristic of Roger Tichborne. It occurs frequently, and is nearly always the same. I cannot find any French origin for it, and certainly no English. Instead of saying "I am at a loss," those being the words he should have used, in numerous instances he says, "I am at lost;" jumbling up the "lost" and the "at"—"I am at lost to give you some news by the reason that you have not told me much in your last letter."

He writes again on the 23rd July, in the same year, to his mother, but the only part of that letter which is at all material is this: "I cannot conceive why l'Abbé Salis has not received my letters, the only thing to which I can attribute that is to your own fault, because every letter that I wrote him I addressed them all to you. The only thing wick I think is that you have kept the letters. If you have done that, it is very rong of your part"—"wrong" being written "rong"—"I beg of you to give him the letter which is inside yours, and tell him to write to me." You see he here complains of the Abbé Salis not answering his letters, and suggests that his mother, as he supposes, must have failed to hand them over to him. If the suggestion was well founded, we have here another instance of the jealous and exclusive temper of his mother, who could not endure his corresponding with anyone but herself. It seems she had then a notion of coming to England, accompanied by the Abbé Salis; and this lad takes upon himself to prescribe to his mother. "If you come to England dont take that Abbé with you because then you would pay his voyage and you have not too much money for yourself as to go & spend it for others."

In that same year we find Mr. James Tichborne in England. He did not go to Tichborne, but went and took up his quarters at Ryde, in the Isle of Wight. Writing to his wife on the 30th July, he says that which leads me to think that he had taken in ill part the refusal to receive his wife, or at all events that having had a quarrel with his brother, he had engrafted on that the grievance of the refusal to receive his wife. He writes thus: "I have not heard from Mr. Seymour since I last wrote to you, and of my family I *know nothing*. I shall dine and sleep at Mr. Hopkins's on Monday next, and proceed the next day to London, from whence I will write to you

again. When I am at Alresford I may perhaps hear something of the Doughtys. I shall not go to Tichborne, but shall send William over for the things I left there last autumn, and you may rest assured that I will never again accept any invitation to Tichborne that *does not include an invitation to MY WIFE also*; but, in all probability, they neither want you nor me." He was mistaken: we find from a subsequent letter of Lady Doughty that Sir Edward was fretting over the estrangement and longing to embrace his brother again.

Now, a question will arise whether Roger Tichborne left Stonyhurst on the 1st of August, 1848. He went there, as you know, at the commencement of July, 1845. The collegiate year began always at the termination of the summer vacation. The summer vacation—that is for the philosophers—began on the 1st of August. Now, the usual period of collegiate life is somewhere about three years, and we can therefore very well understand that when Roger was placed at Stonyhurst the intention of his father was that he should go through a three years' course of the studies there, and should then leave. That that is so I gather in the first place from a letter from Lady Doughty, written on the 3rd of November, 1847, to Roger Tichborne at Stonyhurst. "We were rejoiced," she says, "to find there was a change of masters that gave you hopes of finding much more agreeable management in the college this year; and so, dear Roger, as there is always much knowledge to be gained under any circumstance in a college, I hope you will profit for the remainder of your college life: when I look back to my school life I think I gained more the *last year* than all the previous ones; I hope you may find the same." That seems to me plainly to point to the collegiate year on which he had just entered being the last he was to pass at Stonyhurst; which collegiate year would expire with the 1st August in the coming year, 1848, the date on which we find he did leave Stonyhurst. There is at the close of that letter (I do not read the intermediate part, because it is mere gossip) a somewhat painful passage. It relates to certain books which, even at that early period, Roger was in the habit of reading; and I cannot doubt that those were the French novels of Paul de Kock, of which we have heard so much. I shall have a word or two to say by-and-by with reference to the character of those books, the pernicious tendency of which, I think, has been much exaggerated; but there is no doubt that works of that kind, which are replete with coarse indecency, would shock the mind of a virtuous, modest English lady, brought up with every sentiment of delicacy and refinement, and she would feel outraged at the notion of having such books proposed to her for her reading; and I daresay she was very much shocked to find her nephew was reading works of that kind. A great deal has been made of this passage, and I will read it to you: "I have tried as you

wish to read your books, but the charm of the style (which I suppose is what you admire) does not obliterate the bad principles, and the disgust, which the story and the low slang of some of the dialogues must create in my mind. Surely," she says, "we are created for far nobler views, than to occupy ourselves with the theme of vice, when so many beautiful and entertaining works are daily written which elevate and yet amuse the mind, and there are so many noble pursuits in this world without familiarizing our thoughts with what should tend to disgust them." Nothing could be better thought or better said. Then she desires, what I may observe, with reference to many of her letters, which I do not read, because they contain only what I call family gossip—she always ends her letters with—her love to her nephews, John and Everard Arundell. It will be important to bear in mind by-and-by, that at Stonyhurst there were, during the time Roger was there, the two nephews of Lady Doughty, John, now Lord Arundell, and his younger brother Everard, who, if you remember, is the last in the remainders in Roger Tichborne's will. They were both at Stonyhurst, and we know from the Stonyhurst witnesses, that according to the established practice of Stonyhurst, the philosophers who had relations passing through the school invariably met those relations and walked with them on the Sunday morning after mass. The two Arundells were there at that time; Roger walked with them Sunday after Sunday during the time he was there, and I may take it on myself to say there never came a letter from Lady Doughty to Roger in which she did not refer to those two nephews of hers, and send a kind message to them.

Now, besides the circumstance of Lady Doughty writing that letter, which points to Roger leaving on the 1st August, there is another letter, one from Mr. Seymour, which very plainly shows that the 1st August, 1848, when the collegiate year expired, was the period at which Roger was intended to leave. In November, 1847, it had occurred to Mr. Danby Seymour that, Roger Tichborne's education having been so deplorably neglected, the best thing to do for him to make up for his deficiencies would be to put him into the army, as a school in which, though classical and scientific education was not to be there obtained, the man and the gentleman may be more rapidly developed than perhaps under any other form of training; and it was proposed, therefore, that he should go into the army. Roger gladly listened to the proposal. Of course it was necessary to get the consent of his father (however strongly the Seymours were in favour of it) before the step could be taken of applying for a commission for him, and accordingly Mr. Seymour desired his son, Mr. Henry Danby Seymour, who was at that time at Paris, to communicate with Mr. James Tichborne, and, if possible, to get his consent to the plan of Roger going into the army. Mr. Henry

Seymour, accordingly, talked the matter over with Mr. James Tiehborne, and Mr. Tiehborne seems to have gone into it, and although, I daresay, he knew there would be a violent opposition on the part of his wife, he agreed in thinking that it was the best thing that could be done for his son. Mr. Danby Seymour having communicated that result to his father, we next find Mr. Seymour writing to Sir Edward Doughty on the subject on the 20th November, 1847. "Dear Sir Edward,—This day I have received from my son Henry, who is at Paris, your brother's assent to Roger's going into the army if it can be done, yourself and me agreeing on that subject. The only promise"—which he uses, I suppose, for "condition"—"the only promise he puts is that Roger should remain at Stoneyhurst till August"—They had put him there, I cannot doubt, with the intention that he should complete his third collegiate year, which he would not complete until August—the father says I have no objection to his going into the army if he wishes to go, but I insist on his completing his collegiate course—"And he wishes both you and me to write strongly to Roger to impress him with the importance of his reading, gaining as much as he possibly can during his stay at the college. I write in haste, and can only say that I agree with you that the army is desirable for Roger as a good school if he can get into a good regiment, and there are many such in our army; but between ourselves—" This is the first intimation of that fatal propensity which I fear did exist in Roger Tiehborne—"But between ourselves I have some little apprehension *about his use of wine* (but I beg this may be entirely between ourselves) as it is in confidence only, and to you only that I would say this, his father has no idea of it; but I know some regiments drink very much more than others, and in the Cavalry particularly—however, I hope this may never be a decided propensity. In the Infantry the first step is, I believe, £400—in the Cavalry more. James Tieh has no money, so that unless you furnish the needful the step cannot be taken. Will you write to the Horse Guards, and use your friends on this occasion important to your family. I can say no more, nor can I offer any interest of mine as I have none, and completely failed in the case of my second son. I am, in haste, dear Sir Edward, yours very faithfully, HEN^r SEYMOUR. We are looking out still for a mortgage to place the trust money I and my son Henry have to dispose of." This shows, as you see, that the final intention of his father was, as I believe it had been from the beginning, that he should stay to the end of that collegiate year, 1848, and then leave; such was, at all events, the fixed determination at the time. Application was made for a commission, and Sir Edward Doughty did what was asked. He wrote to the Horse Guards, to Lord Fitzroy Somerset, who was at that time the right-hand man of the Duke of Wellington, and through whom all

applications for commissions passed, and received for answer the assurance that his nephew's name should be placed on the list of the Commander-in-Chief for a commission when his turn should come; and so the matter stood.

Now, in the course of that year, 1848, Sir Edward and Lady Doughty having removed to Tichborne, and being settled there, Upton, the place they had previously occupied, was let to the Dormers. We get that date fixed, by a letter from Lady Doughty to Roger of the 2nd April, in which she tells him, from Sir Edward, "I am to tell you that he has let Upton for 6 months certain beginning with the 10th of May to Lord and Lady Dormer. They are now at Dover, not liking to remain at Boulogne or travel further in the present unsettled state of the Continent. We therefore intend going to Bath on Easter Monday, fetching our dear Katty from Taunton, and going to Upton on the 1st of May to settle everything there for giving it up to the Dormers on the 10th when we shall return home." So that, from May, 1848, Lord and Lady Dormer were occupying Upton. They occupied it not only for the six months certain, but, I believe, for something like eighteen months on the whole. On the 9th of April, 1848, Roger writes to his aunt: "I have received your very kind letter not long ago. I was very happy to learn by it that Lady Dormer had come over to England, I suppose that it is some time already since she quitted Boulogne. I wrote her about 6 weeks ago, and I addressed my letter at Boulogne so I think that she has not received it. I should be much obliged to you if you had the kindness to give me her direction in your first letter."

In that year, 1848, Mr. James Tichborne came to England, bringing over his boy Alfred with him, as he had done on a former occasion, thinking it right that the little fellow should be introduced to his English relations, and not live isolated from them, without their acquiring the interest in him and the affection for him that relations should have, and this again appears to have been displeasing and distasteful to his wife. She did not like the one son being put to college in England, and the other being brought over and introduced to his relations; accordingly we find he has to vindicate his conduct in doing so to his wife. He writes to her from Upton House on the 24th July, where he had been on a visit to Lord and Lady Dormer, and he says, "Much is wanting to my happiness when I am separated from you, at the same time, my conscience tells me I am acting right and properly towards my children in having them in England, which, notwithstanding all you may say, is their true country, as their father is an Englishman; at the same time it is a most distressing circumstance to me, that in fulfilling my duty towards them, I have made you unhappy. You have

never believed in the sincerity of my affections and how dearly I love you, it could not therefore, fail to make me miserable to witness for many years past the cruel and unjust antipathy you have so constantly manifested towards my family. One thing I will maintain, which is, that they did not deserve it, and now dearest Henriette, I have done with a subject which is cruelly distressing for me to touch upon."

In 1848 I find Roger in correspondence with a gentleman named Walter Strickland, whom the defendant seems afterwards to have confounded with a Captain Litchfield, as far as I can make out, and over whose death you will not forget that he exults as belonging to the opposite party. This Walter Strickland was the son of a gentleman who lived somewhere in Hampshire, in the neighbourhood of Tichborne. He became a great favourite at Tichborne House, and Lady Doughty appears to have taken an interest in him almost as if he had been one of the family, and an intimacy sprang up between Roger and this young Strickland, who was destined for the royal navy, and who went out in one of Her Majesty's ships as a midshipman, and afterwards obtained the rank of post-captain in the service. He writes a letter to Roger from Her Majesty's ship 'Amphitrite,' "Ascension, April 30th, 1848. My dear Roger: It was with the greatest pleasure that I received your letter from Stonyhurst. You forgot to date it, so I do not know when it was written, but from your dear and excellent Uncle and Aunt Doughty I have heard of your prospects of getting a commission in the British Army. You will easily imagine that I am better pleased at this prospect than if you had entered the Austrian, a foreign Service. It was all very well for young English Catholics to enter such armies when the laws of their country rendered it impossible for them to join their own; but now let every Englishman lend his arm to defend 'the flag that has braved a thousand years the battle and the breeze.' I am sure that you are becoming more English in your thoughts, for your letter shows it. Pray my dear Roger, let us continue our correspondence. Thank God, I am contented and happy as ever in my ship. We have been here now for two days, and shall start the day after tomorrow for the Bight of Benin again, where I suppose we shall remain for two or three months longer. The more I see of this strange world, and the stranger people in it, the more convinced I am that the next is the only life worth living for. Reflect on this dear Roger and do not defer any longer (if you have not performed your promise to me) to make a clean sweep of your conscience: but for God sake I conjure you not to dare to approach the Holy Communion without the most ample and awful preparation. I say *awful* for who can think of receiving his God! The great being who by his word only, created *all things*! without a feeling of *awe*. But I must not turn

preacher!" He signs himself, "My dear Roger Your very affectionate friend WALTER STRICKLAND."

On the 20th of May, 1848, Roger writes again to his mother. There is nothing in the letter beyond a reference to the Abbé Salis; but it shows he always held the Abbé in affectionate remembrance. "I suppose that you see sometimes Abbé Salis, is he always in the same place, that he was in last year. I should be very happy to receive a letter from him. I will answer it with much pleasure.—You must find Paris not half so pleasant now as it was a few months back."—This is one of his characteristic mistakes—instead of "find," he writes "fine;" that is one of his peculiar forms. I pass by letters between him and Lady Doughty which are merely the gossip of two relations, and I come to a letter of June 23rd, 1848, from Lady Doughty to Roger, then at Stonyhurst. "Many thanks for your kind letter—a letter from your uncle crossed yours to me and therefore you will before this have heard from him—he has been very well ever since we returned to Tichborne till the last few days when a little cold has made him feel weak again"—then she adds, which shows how mistaken Mr. James Tichborne was in thinking that his brother did not care about seeing him or having him at Tichborne:—"Whenever this is the case he always frets, especially at the unfortunate estrangement between your father and us all, which is ever uppermost in his thoughts *and has and does* create so much sorrow, and he is I think disappointed at your father not coming to England, there being less *hope* of any reconciliation, but we hope and pray it may yet some time be brought about, and that we may have the pleasure of seeing both you and dear Alfred again—we shall be truly happy to welcome you here as soon as you can come to us, and pray send whatever trunks you like and they shall be taken care of for you." Then comes an important passage. Lady Radcliffe told us that when she saw her cousin Roger at Bath in January, 1849, she had not seen him for I know not how many years; I think she said seven or eight years. Well, it struck one as strange that, Roger going frequently to Tichborne for his vacation, the two cousins should not have met. Here is the explanation. Miss Doughty had one vacation in the year like Roger, or, at all events, one principal one, but the two vacations never coincided. "In July I must take our dear Katty back to Taunton. Your holidays are all at such different times that I am sorry you are not one of our present merry party"—Miss Doughty was to be taken back in July. Her vacation being in June and July, and his being in August, his was just after the time when she went back—"Lord and Lady Dormer came yesterday with Mrs. Greenwood for Mass and staid till after Vespers—they all enquired and were glad I had heard from you—they

return to Upton to-morrow—they seem much pleased with that dear place.” Then comes as usual “pray give my love to my Nephew Arundells, and I remain yr affectionate Aunt K DOUGHTY.” That passage explains how it happened that Roger and his cousin never met until 1849.

He was now about to leave Stonyhurst and to leave it permanently. The passages I have read from Lady Doughty’s and his father’s letters show he was not to go back to Stonyhurst, and the further proof that this was so, as it strikes me, is that he sends to Tichborne boxes containing all his books and Stonyhurst effects, which, of course, looks like a final departure from the latter place. On the 30th of July, he writes to Mr. Gosford: “I took the liberty of addressing two boxes belonging to me to you at Tichborne, those boxes contain my books and several things of mine. I should be very much obliged to you if you had the kindness to see that those boxes are brought at Tichborne”—There is here another peculiarity, he confounds the use of the English words “at” and “to,” both of which are represented by the French preposition *à*. When he would say he is going “to” a place, he is very apt to say “I am going ‘at,’” and, *vice versa*; he confounds the two words—“I should be very much obliged to you if you had the kindness to see that those boxes are brought at Tichborne and put in a place where I shall be able to find them when I have the pleasure of going to Tichborne. I shall leave college next Tuesday the first of August for London, where I shall stay some time on my way to Clifton.” On the 4th of August, he writes to his mother: “My dear mother I quitted college 3 days ago”—which shows that he left on the 1st of August. “I came to pass few days”—Here we have another characteristic peculiarity which hardly ever fails. He uses the phrase “few days,” translating *quelques jours* from the French; he leaves out the word “a” and uses the expression “few days”—“I came to pass few days with Mr. Seymour in London. I shall go off from London very soon to join my father who is in Clifton with my Brother. I am delighted that my father allowed me to pass few days in London with Mr. Seymour. I hope that I shall have the pleasure of paying you a visit in Paris, my Father mentioned it in his last letter. I hope to have the pleasure of receiving a letter from you before long which will inform me what are your plans, if you intend to stay in Paris all the summer or go to the country for few months.” That letter is addressed to her at the “Rue Castiglione, No. 9.”

At this time Mr. James Tichborne was in England. He had spent a short time with Lord and Lady Dormer at Upton, and he then took apartments at No. 12, Meridian Place, Clifton. In the last letter I read from Roger Tichborne to Mr. Gosford he says he

is going to join his father at Clifton, and we find afterwards that he did join his father at Clifton. In the meantime there are some letters between Mr. James Tichborne and his wife, which are not unworthy of attention. On the 5th of July, before Roger had left Stonyhurst, Mr. Tichborne writes thus to his wife: "My dear Henriette, I have to acknowledge the receipt of both your letters, the last was put into my hand this morning, just as we were going to mass and I lament to say that it was not possible to write to me with more asperity and unkindness. This I flattered myself I did not deserve, and I now beg leave to tell you once for all, that if your letters cannot contain anything except invectives against La Nourrice"—this was Alfred's nurse—"I beg you not to write to me any more, for your constant scolding and finding fault with me distresses my mind and acts in a most unfortunate manner on my nervous system." Then he vindicates himself from various things which I suppose she had written, and then comes this passage: "I must say it does appear to me extraordinary that you should reproach me for the trifling sum I thought myself authorized to give towards the education of Nourrice's little girl when you ought to reflect on the very large sums you have lavished away, and that without thinking yourself in any manner obliged to render the least account to me. I say nothing of the sums of money you thought fit in *my absence* to lavish upon that scoundrel Jolivald in purchasing pictures, and other sums of money you furnished him with to pay his journey to England to drag Roger away from college. All this seems to have escaped your memory. I do not allude to the large sums you have upon frequent occasions expended in presents to churches and charitable institutions, and all this without ever once condescending to consult me or to ask my approbation to what you were about doing; quite the contrary, you invariably took advantage of my absence to do all this and thereby show your disdain and want of consideration for me." Then there is a good deal more on that subject; then he puts it to her to come to England and reside here with him. He says: "I do not hesitate in telling you that you ought to have accompanied me to England, and how you can remain in Paris in the present state of things there is what astonishes every one; with a little exertion you might very easily come to this place, as the rail road would bring you all the way excepting the short passage from Boulogne to Folkestone. The disturbed state of Paris cannot make it either a proper or desirable residence for you or anyone else, besides which Paris est toujours en état de siège, which must be insupportable. The advice I have to give you is, that when Roger quits Stonyhurst"—as if he contemplated his immediately quitting Stonyhurst—"we will go over to Paris and bring you back with us to England, we will remove here during the fine weather,

and take a house in Bath for the winter. Bath is infinitely warmer than Paris and fuel is cheap, besides which it is an agreeable winter residence." Then he makes observations on the then state of Paris, and says, "I repeat, this is now the only quiet country, and it is a thousand pities that your prejudices against England should make you prefer Paris in these dreadful times to the quiet and tranquillity of this country. Unfortunately you have injured your health and strength by indulging too much in bed, but notwithstanding the unkind language you make use of to me in your letter if you consent to come to England we would all endeavour to do anything in our power to make you happy and comfortable—that I can assure you of. I have not the folly to suppose however that you are disposed to anything I wish of you. At all events I shall take Roger to see you and if you will not listen to me perhaps you may to him." Then he tells her to get "a proper *femme de chambre* instead of such devils she always had about her." Then he says, "In conclusion I must say, and I say it with bitter regret that I never received so cruel, unjust and unkind a letter as was your last to me. Never talk of affection to me after that!!! Alfred is in excellent health. If you think proper to answer my letter I must insist that you never mention the Nourice's name again. Notwithstanding your shameful language to me I am always your faithful and affectionate JAS. F. T."

On the 3rd of August he writes again, and this is a letter which has more immediate reference to Roger. "Roger was to quit Stonyhurst the day before yesterday and is now I conclude at Mr. Seymour's in Grosvenor Street, he will remain with him in Town a week or ten days, as he will require rigging out a little; he will then come and join me here and early in September I shall take him over to Paris to see you, and I do hope and trust that you will consent to return to England with us. I feel but little disposed to take up my residence in Paris again, no strangers can fix themselves there for the future, *car une ville en état de siège a peu de charmes pour nous*. Paris has now lost all its agréments and can never again in my time be a pleasant sejour and as the journey to Bath or Clifton can now be performed with so much ease and expedition I must now insist upon your living with me in England, and if you should so far forget your duties and obligations as a married woman as to refuse me this, you will lose your respectability and consideration in society, both here and abroad, besides which we shall in all probability meet no more, that may be of little consequence to you, but as for myself, it is very afflicting to me in the decline of life to find myself so lonely and left to myself as I am now. This reflection oppresses my spirits and makes me extremely low and melancholy. You tell me again of the necessity of your passing the winter in a warm climate, but where you propose going to is what I cannot make out. The present state

of Italy cannot make that country very inviting. I will maintain that Bath is infinitely a warmer place than Paris for the winter and fuel is so cheap that you could keep yourself perfectly warm." After another passage which is of no importance, he says, "Chatillon will have received a long letter from me this morning. I quite despair hearing from you again which distresses me much. Dear Alfred is very well and begs his dear Mamma's blessing, he is looking forward with delight to the happiness of seeing his dear Roger again. Remember me kindly to Monsieur Cagès and tell him I feel obliged to him for writing to me. It is not my intention to remain long in Paris with Roger as you must be aware that Paris is not exactly the place for a young man of his age to be left to run about in. I must now conclude as I am very dull and stupid. Have you seen Auguste Callaghan? I wished to hear from him. I must now take leave of you but I hope and trust my dearest Henriette that you will reflect upon what I mention and that you will not refuse me the happiness of coming to live with me. I will do every thing in my power to make you happy and comfortable, and your children have a right to expect this from you. Reflect then upon your duty and obligations to me, and that my comfort and happiness as well as that of your children depends upon the decision you make of living with y^r husband or separate from him. If you were to consult a wise and prudent confessor he would very soon enlighten your mind on this subject. I do not wish to hurt your feelings, but I am obliged to speak the truth."

On the 16th, Roger, who had spent a week or so with Mr. Seymour in London, went down to join his father, and I must call your attention to this, that all these letters written by Mr. James Tichborne to his wife admit of no other possibility than that the wife was at Paris and not with him at Clifton. In this respect the defendant has made a serious mistake; for on his examination he stated that he, as Roger Tichborne, went down at this time to join his father and mother at Clifton.

Mr. Tichborne writes again from Clifton: "August 17, My Dearest Henriette, I have to announce to you that our dear Roger arrived here quite safe and well yesterday afternoon; he had passed his time most agreeably in Grosvenor Street, where they are all so very fond of him; he wanted several things in London, it was therefore necessary he should remain there some little time; he is grown taller and stouter than when you last saw him at Abbeville, and is a well-looking youth. Mr. Seymour was so kind as to go with him to the Commander-in-Chief's office before he quitted town, and Lord Fitzroy Somerset,"—whose name the defendant had totally forgotten,—“made him hope he would get a Cavalry Commission in about six weeks or two months' time, and this delights him very much: you must recollect that Roger is now in his twentieth year, and his

returning to college is out of the question,"—I must here remind you that it has been suggested by the learned counsel for the defendant that although the letters to which I am calling your attention show that Roger did quit Stonyhurst on the 1st of August, he returned thither again and stayed a short time till circumstances discreditable to him induced the authorities to dismiss him prematurely; the intention having been, otherwise, that he should remain at Stonyhurst. Now, here we have the father writing during the continuance of the vacation—"You must recollect Roger is now in his twentieth year, and his returning to college is now out of the question, I am willing to think that Roger is a very well disposed lad, and what he now requires is to see a little of the world, and to be brought into good society, and not to be under a glass case as you seem to intimate. And I can assure you that you are quite mistaken if you suppose I wish to deprive you of that authority you ought to have over your children, and I hope and trust that both Roger and Alfred will ever listen to the good advice you may give them; at the same time I am obliged to say that my opinion does not coincide with yours, as I cannot see any danger likely to arise from his taking a journey to Paris with me to pay you a visit: were I not to take him to see you before he entered the army you would (and with reason) be displeased, so that it makes it difficult for me to know how to act. I flatter myself however that you will be happy to see your dear Roger and that you will give him your kind reception. I was in hopes you would have returned to England with me and have passed the winter at Bath, which notwithstanding all you may say is an infinitely warmer place than Paris, but do not think I wish to contrary you, at the same time I cannot look upon Paris in the present state of things, as either a safe or an agreeable séjour, besides which your constant and unrelenting antipathy both to Roberts and to my servant makes me always very miserable and unhappy, fortunately you are the only person who will not acknowledge the good services by her to your child. I saw Miss Portia Smith the other day, she is living here with her mother who is in a very bad state of health. Portia made many inquiries after you and was sorry to hear you were in such a delicate state of health. Old Mrs. Hopkinson is wonderfully well considering her age, she is always extremely kind to me and my two boys." Gentlemen, you remember that at a certain period of the case Mrs. Hopkinson's name assumes a position of some little materiality; and it may be as well to recollect this passage, which shows that in the year 1848, when Roger was nineteen years of age, the name and person of Mrs. Hopkinson must have been familiar to him as a person who had always been kind to him as well as to his father.

Another, and I think the last, letter of Mr. Tichborne from this same residence has again reference to Roger. Writing to his wife

on the 31st of August he first adverts to matters immediately connected with herself but not at all with this case, and to which therefore I need not further advert. But he then says:

“I am very sorry you should be so much adverse to Roger’s entering the service of his own country for a few years; you ought to know that a young man of his time of life cannot remain *quite idle* when he quits college, and the army is an honourable employment and very much sought after in this country. I have explained to Mr. Seymour and to Roger also that neither you or myself would consent to his entering a regiment about going to India and you may rest assured that in whatever cavalry regiment he may be appointed to, his services will not extend beyond England, Ireland, and Scotland” (where he would be safe). “I have every reason to think that being in the army for a few years will be very advantageous to him. I know you so well my dear Henriette, and I also know your *hatred* and *prejudices* against my country to be so very strong that if Roger had entered the service of Austria Russia Sardinia or *even France*, had it been possible, you would have thought it right, and would not have offered the least opposition to his so doing; but to enter the service of ENGLAND his OWN COUNTRY! ’tis a crime you never can or will forgive, which is very lamentable. I went with Roger last week to pass a few days at Upton with the Dormers. I found them all very well, and they appear to like Upton. The eldest son was at home and Lord and Lady Arundell were also there with my two nephews, so we had a gay party. I purpose quitting Clifton on Wednesday next. I shall go first to Upton and leave Alfred and Roberts there as Lord and Lady Dormer have very kindly invited them to stay with them during the time I go to pay you a visit with Roger: we shall embark at Southampton for Havre as that will be our shortest and least expensive way & I hope to be with you in Paris by the 10th or 11th of September. I must beg you not to blame Roger for entering the Army.”

These letters show quite plainly, as I said before, that Mrs. Tichborne was at that time at Paris, and not at Meridian Place, Clifton, as was stated by the defendant.

Now Mr. James Tichborne and his son went, as he had announced they would do, to Paris to visit the mother; they stayed in Paris a few days, about the middle of September; then they went to pay a visit to the Viscount de Brimont at his chateau at Rheims in Champagne. Mr. Tichborne writes from Rheims and states that he is there. The letter was interesting only to the parties corresponding, and will not in any way assist us; I therefore pass it by. From Rheims the father and son went straight to England by way of Boulogne, without coming to Paris, and on the 12th of October

Mr. Tichborne writes from Boulogne to his wife, and says that he and Roger had spent a week very pleasantly at Rheims; "they were all exceeding kind to us, and good old Mons. de Brimont felt very much flattered at my visit to him; he made many and very kind inquiries after you and regretted that your delicate state of health does not allow you to go and see him." He says, "We shall cross over to Dover on Saturday and shall dine that day with the Digbys and probably continue our journey to London on Sunday after Mass." In the meantime Roger had received, in France, a letter from Lady Doughty, of no importance, with this one exception that she refers to a name which comes up again in the course of this inquiry. The Doughtys had come to Brighton, and were staying at the Bedford Hotel, and she writes, among other things—"Lady Teresa Dease and all her family are here, Mr. Dease and his three sons"—the young Deases and Roger had been at Stonyhurst together—"the TALL son looks still very delicate but very pleasing." Then she speaks about other people, and among them "Emily and Johnny," whose names frequently come up in her letters.

On the 27th of October Mr. Tichborne is at Upton staying with Lord and Lady Dormer. He writes to his wife, "You will perceive by the date of this that we are still at Upton, it was my intention however to have quitted this place for Knoyle as to-morrow, but on account of the Feast of All Saints occurring on Wednesday next we shall not go there till Thursday the 2nd and I hope to be in Paris by about the end of November." Then "I do not like to quit England until I know something positive respecting Roger's Commission but, I will tell you fairly that if he never got it I should not much care." The proposal for Roger to go into the army, so strenuously objected to and resisted by the mother, had not emanated from the father, and probably never would have been suggested by him if it had not come from the Seymour side of the family; he acceded to it only as the best thing to be done for Roger. He says if he did not get it he should not much care. Then he goes on thus. "However, as it seems he wishes to enter the Army, it may be advantageous to him to enter into a good Regiment for a few years. As to his returning to Stonyhurst it is quite out of the question"—now this is in October, when if Roger had had to go back to Stonyhurst at all he would already have gone—"It is quite out of the question, and for these reasons: in the first place he is not of a studious turn of mind, which I regret, but so it is: in the second place Roger is very near twenty years of age, and although I am willing to think that he is not of a rebellious disposition, still you will seldom find a young man of that time of life disposed to submit to the rules and discipline of a college life; such you will find to be always the case, I except however those young men who dispose themselves for an ecclesiastical career. I

have pointed out to Roger certain rules and regulations as to his future studies and employment of his time which he has promised me to attend to, and which I hope may tend to improve his mind very much in other respects; you will I am sure approve of my not bringing him back with me to Paris." There is a great deal more which I do not trouble you with. Finally he says, "How I wish you could have made up your mind to have accompanied Alfred & me to England last Summer!! Everything is so quiet in this country." She did not come to England; it would have taken a great deal more than the persuasive powers of Mr. James Tielborne to induce her to come to this country, for which she had so little predilection.

From Upton the father and son go to Knoyle. When there Roger receives a letter from his mother, remonstrating against his going into the army, and pressing him most urgently to go back to Stonyhurst. This is what Roger says in answer, and from this you may judge whether he did go back. "My dear Mother, I had the pleasure of receiving your very kind letter few days ago I am very much obliged to you for all the kind wishes that you form for my present happiness; but there is a thing which you say in your letter which does rather surprise me after all what I heard you say few years ago"—Here we have another peculiarity which I suppose comes from the French: instead of saying, "that," he always says "what;" instead of saying, "after all *that* I heard you say a few years ago," he says, "*what* I heard you say a few years ago," *Ce que*.—"It is the desire that you express of my going back to College. You know very well that I am too old to go there again, you know very well also that I should not learn much if I was to go there again. I should be very much obliged to you if you don't talk to me of it any more." This shows the sort of resolute determination which this young man had formed at that time to think and judge for himself and to act on his own judgment, and not according to his mother's. He continues: "Mr. and Mrs. Seymour,"—observe, if you please, that phraseology. This young man is writing to his mother concerning her father and his maternal grandfather. If there ever was an occasion on which Roger Tielborne would have called Mr. Seymour his grandfather, most assuredly it would have been on an occasion when he was writing to his mother; but, so confirmed, so inflexible, so unvarying, so uniform was the habit of thinking, speaking, and writing of the Seymours without any reference whatever to the relationship in blood which existed between him and them, that when he is writing to his mother, of her father and his grandfather, he does not refer to him as his grandfather, or her father, but says, "Mr. and Mrs. Seymour arrived here few days ago from Bath. Mr. Seymour is looking very well. I don't know how long he will remain at Knoyle. I don't think that he has fixed the time of his departure. Henry

Seymour" (not "my uncle" even to his mother) "is gone this morning to London. I think that he will remain there all the winter. I went out shooting several times, but as the birds are very wild I could not kill much. Alfred Seymour" (not "Uncle Alfred") "charged me to give you his love and to tell you that he will soon write to you. I remain, My Dear Mother, Your very affectionate and Dutiful Son, R. C. TICHBORNE." That is addressed to "Madam Tichborne, Rue Castiglione, No. 9." Then there is a letter of that same year, 1848, the last letter of that year, to Mr. Vincent Gosford. It is about sending him some music he left among his papers and about his intention to come to Tichborne. There is nothing remarkable in it with one exception. He again refers to his having been out shooting at Knoyle, and having been unable to meet with any success on account of the wildness of the birds. "I went out shooting several times, but the birds are so very wild in this country, that I have not been able to kill anything." I do not know that going out shooting several times at Knoyle in 1848, when he was nineteen years of age, is a thing that must have made a lasting and ineffaceable impression on his mind. Still, taking it for what it is worth, it is quite clear it was a fact, which the defendant had either not been acquainted with, or had forgotten, for he distinctly stated that he had never gone out shooting at Knoyle. Herewith closes the year 1848, in which year ended the career of Roger Tichborne at Stonyhurst.

Gentlemen, I do not propose at this moment to go into the details of his Stonyhurst life: it will be necessary to go into those details hereafter with some degree of particularity, because the defendant was very properly taken through the whole of Roger Tichborne's Stonyhurst career, and you will have to form a judgment as to how far the knowledge or the want of knowledge exhibited by him leads to the conclusion that he is or he is not the Roger Tichborne into whose identity we are inquiring. But there are one or two things which I think we may take along with us before we quit for the present this particular part of Roger Tichborne's life. How did he pass his time at Stonyhurst? Was it in the indulgence of mere idleness, or did he do his best to profit by the opportunity and to learn something? At all events, did he learn something? Now, that he acquired a very decent knowledge of English, in spite of his gallicisms, his French idioms, and his mistakes of grammar and spelling—which, by-the-by, are not of so frequent occurrence as one might on the whole have expected—that he made considerable progress in English and in English writing, cannot be doubted by any one who reads his letters. But it was not confined to English alone. He learned some little Latin, although not much. We know from Father Mann, who was Professor of Latin, that from the first year he was there, having been handed over to Father Pater, who taught him English, to be in-

structed in Latin, because his want of English prevented Father Mann, who did not speak French, from teaching him himself; he learned from Father Pater a certain amount of Latin. No doubt it does not come to very much. However, he was able to construe passages from the first book of 'Cæsar's Commentaries.' It is an early school-book, as those who have had a classical education know; at the same time there are very puzzling passages in those said Commentaries of Cæsar, as I remember very well and of which I have a painful recollection. Still, he did, in the first year work at his Latin, and although we do not know what took place after Father Mann left—he left at the end of Roger's second year—there is no reason to suppose his study of that language was discontinued. Though it never came to much, still, it was something; and he also seems to have learnt a little of history. Naturally he would do so. Everybody desires to know a little something, however elementary it may be, of what has taken place in the past history of the world; and I cannot doubt that he had a notion of who Julius Cæsar, who wrote those Commentaries, was. The man who laid the foundations of the greatest empire that has ever overshadowed and ruled the world was not altogether beyond Roger Tichborne's ideas. I suppose when he was learning Latin he knew perfectly well he was not learning Greek, and he must have known that Julius Cæsar was a Roman, and wrote in Latin and not in Greek.

Again, we know he studied mathematics. I daresay he did not get very far in mathematics, but he got to the end of the first book of Euclid before the professor who first taught him left, and while there was still an entire year of his collegiate course remaining; and for aught we know the mathematics were still continued. I do not suppose that any amount of mathematical teaching would ever have turned Roger Tichborne into a senior wrangler, and I do not at all wonder at his stumbling when he got to the foot of that very unpleasant obstacle, the Asses' Bridge. There is many a man who, starting with the notion that he may become a Herschell or an Airey, finds, when he gets to the Asses' Bridge, that nature has not endowed him with an aptitude for mathematics. It is one of the finest pieces of strict ratiocination that ever delighted the mind of a geometrician or a reasoner; and no one who has ever mastered that problem can look on it without reverence and delight as one of the masterpieces of the productions of the human mind. But there is many a man who fails to get over it. It seems Roger Tichborne failed at it at first. He had to assume that proposition as established—to assume it and pass on, in order to deal with the further propositions to which that one is necessarily a step; but they did get on, the professor tells us, with the other propositions, and got to the end of the book. They mastered, again, that equally, I may venture to say, sublime piece of reasoning by which

the square of the hypothenuse is shown to be equal to the squares of the other two sides of a right-angled triangle. Then they went back to the fifth proposition, and Roger became able to follow the reasoning and make out that proposition from its premises to its conclusion. At a later period you have him working again and again at his mathematical studies with the view to his examination for the army. At the same time I have very little doubt that if you had asked Roger Tichborne to do one of these problems when he went on board the 'Bella' he could no more have done it than he could have flown. Of the young men who go in for a preliminary mathematical examination in the books of Euclid or the earlier portions of mathematical science, nine-tenths, ninety-nine hundredths, never open Euclid after they leave school or college, and if you were to ask them in after life to work out one of those propositions they would be totally at a loss. The greater is the pity. If you want to keep your mind alive to the true process of ratiocinative discussion or reasoning, you cannot do better than do every now and then what I do not disguise I have constantly done in the course of my life, take down Euclid and work out a proposition or two, when you have got leisure. You will find it is a discipline for the mind as regards the faculty of reasoning which I do not believe all the books of logic in the world would so effectually afford you. But the question you will have, by-and-by, to determine is whether Roger Tichborne acquired at Stonyhurst such an amount of elementary mathematical information as that what mathematics meant would remain indelibly on his memory, and although he might not be able to work out the propositions of the books of Euclid or of any geometrical treatise, he would be able to tell you what mathematical science meant, and what were the subjects with which it deals.

There were one or two other studies which Roger Tichborne followed at Stonyhurst. He went through a course of chemistry. The learned professor who came here told us that he delivered a course of lectures on chemistry, something like twenty lectures, and that Roger Tichborne attended that course. I dare say his knowledge, such as it was, gathered from these lectures, was of the most elementary description; but still a man does not go to a course of lectures on chemistry and hear even the merest elements of that science expounded without carrying away some impression on the subject. Of all the sciences in the vast range of human knowledge there is none more fascinating than this science, which seems to enable us to resolve the things of creation into their primary elements, and then enables us again to combine those elements in new and fresh combinations, and so, as it were, gives to man a creative power which but for this noble science he never could have dreamt of. A man does not go and hear even the rudiments of that great science expounded without carrying away some knowledge of the subject-matter to which it relates: unless his memory has be-

come shattered and destroyed he will not confound the science which teaches us the elements of things and tends half-way to solve the mysteries of creation, with the business of the man who compounds chemicals and prepares the doctor's prescriptions; and yet that is the view which the defendant on his examination took of the science of chemistry.

Says the learned counsel for the defendant, Roger Tichborne acquired no knowledge of any sort or kind at Stonyhurst. He passed his life like a beast of the field, wallowing and grovelling in the lowest, the most miserable sensuality, smoking and snuffing, making immoral visits to Preston, learning nothing, becoming debased, demoralised, and lost both in body and mind; being allowed by the authorities at Stonyhurst to indulge in unmixed idleness and the gratification of these evil habits and vicious propensities. They taught no morals, and did not want morals. They did not want their youths to grow up with habits of morality and virtue. They wanted "men with the minds of women." Twice, thrice, has that same foul accusation been hurled against the authorities at Stonyhurst. I am no friend to the Jesuit order. I believe that their principles and their purposes are inconsistent with the freedom—moral, intellectual, and religious—of the human mind; but to say that this order, which, whatever may be its merits or demerits, has done so much for the furtherance of education—for which literary men ought ever to be grateful to them—to say that this order would abuse their opportunity to demoralise the youth committed to their charge, and would do it for the purpose of those abominations to which the learned counsel referred, is, to my mind, one of the most fearful accusations ever brought against a body of men, while it is one for which there is not the slightest shadow of foundation. All that the learned counsel can point to is some folly they had in abolishing in the plays which they performed the love scenes which occurred in them, as they always will occur in every play, and converting them, as it seems they did, by some *hoecus-poeus*, some jugglery, into relations of a totally different kind. For this reason, and because there may have been left in one or two of those Stonyhurst plays some passages which the over-fastidious, I had almost said sickly, sentiment of the Reverend Father Fitz-Simon may have thought a little too strong for the ears of some delicate young lady—for something or other of that sort dropped from the Reverend Father Fitz-Simon about some passages in the plays—it was said they were altered into something of a different character to which I will not further refer. I never heard so monstrous an accusation, and I trust to God I never shall again. And with that, gentlemen, I close for to-day.

ONE HUNDRED AND SEVENTIETH DAY.

*Friday, January 30, 1874.*Preparation
for the Army.

THE LORD CHIEF JUSTICE: Gentlemen of the Jury, we had arrived yesterday at the close of Roger Tichborne's career at Stonyhurst. We are now entering upon the third chapter, if I may so call it, in the history of Roger Tichborne; namely, the period of twelve months occupied in his preparation for the army. We left him at Knoyle, where he had written that striking letter to his mother of the 11th November, wherein he peremptorily refuses to entertain the idea of going back to Stonyhurst. When he left Knoyle, he went to Tichborne, and Tichborne became his home until the 9th August in the ensuing year, 1849, and it was during that time that he prepared himself for the examination he knew he would have to undergo preparatory to his entering the army. Early in the year 1849, he made two visits, one to Bilton Grange, and one to Bath; but before he left Tichborne for the first of those visits, he wrote a letter to his mother, which I think is not unworthy of attention. It has been said that his time was passed in utter idleness; it was stated by the defendant that from the period of his quitting Stonyhurst to the time of quitting Tichborne, he passed his time in field sports, and any other means of amusement he could find, but that he never read; he had had enough and too much of that, at Stonyhurst, and therefore never gave himself up to reading at all. It is right, therefore, that you should hear Roger Tichborne's account of it. Writing to his mother on the 1st of January 1849, when conveying to her his wishes for her happiness at that season of the year, he adds: "I pass my time here in a very pleasant way. I go out riding nearly every day and walking. I read instructive books. I read nearly all that book which you gave me and which is called, I don't remember the name of the book at present, but it is the one which is written by Monsieur de Chateaubrian. It is very interesting indeed, the description which he gives of the Holy Land is very interesting." He is here referring to the well-known work of Chateaubriand, the *Itinerary from Paris to Jerusalem*, which the author describes with all that flowing eloquence for which his pen was remarkable. Then comes a very pertinent observation: "There is only one fault which I found in it, it is that he makes the preface so very long. I should be very happy if you had the kindness to send me the life of Louis 16, I am sure that it must be a very interesting book. I have not received a single letter from l'Abbé Salis since I left Paris, I have forgotten his direction, otherwise I should have written to him." That letter seems to show that his life was not one of unbroken idleness and search after amusement as it has

been represented to have been. As I said, in that year he made two visits, which have been made the subject of questions to the defendant, and which we must therefore note as we go along. The first was a visit to Mr. and Mrs. Washington Hibbert at Bilton Grange, near Rugby, in Staffordshire. There he spent a fortnight, and an authentic account is given of him by Mr. Mansfield, who met him there on that occasion. The house was full of guests; and Mr. and Mrs. Washington Hibbert took the opportunity of introducing him to persons whom he was likely afterwards to meet in Ireland—to Lord and Lady Howth, who were there with their son Lord St. Lawrence, and their daughters, the Ladies St. Lawrence; and we know he visited them afterwards at their seat at Barmouth, in the neighbourhood of Dublin. Mrs. Hibbert not only introduced him to persons who were there, but also gave him letters of introduction to Dublin; amongst others, to a lady whose name has been prominently brought forward—Lady Clanricarde—at that time one of the first people resident there. After he had spent a fortnight at Bilton Grange he went to Bath, where his uncle Robert was at that time living. Sir Edward and Lady Doughty had come over from Tichborne on a visit to Bath; and there were other members of the family also staying at Bath at that time. Mr. and Mrs. Nangle were residing there with two sons, or, at all events, with one, and their daughter, who have been witnesses before you; and upon that occasion one or two things took place, not indeed very remarkable, but which still might have remained in the recollection of Roger. They have been made matters of interrogation to the defendant, and I therefore advert to them. It seems that while all the party were assembled there, Sir Edward Doughty, whose presence at Bath, by the way, the defendant altogether ignored, met with an accident. Mr. Robert Tichborne gave a ball, and Sir Edward Doughty, though very infirm, and walking with considerable difficulty at the time, would come downstairs to see the ball, and in coming downstairs he met with an accident, and had a very heavy fall, which naturally alarmed and frightened everybody present. It turned out fortunately that he was more frightened than hurt, and the accident was productive of no serious consequences. Still it alarmed the persons present, at all events, the members of his family, and was therefore a circumstance which might have been remembered. There happened also another interesting circumstance. Just as the ball was about to commence, the wife of the butler Allen was brought to bed of twins. Of course that produced some sensation; they did not know whether the ball must be stopped in consequence, lest the mother might suffer from it. However, the ball went on. Then there was another little circumstance that might have been remembered and which has been proved in evidence before you. It seems that young Mr. Nangle, now Major Nangle, and Roger Tichborne

had been out one evening visiting, or dining out, and as they were coming home they saw the town hall brilliantly illuminated. They inquired what was going on, and understood it was a ball given by the tradesmen of Bath; and these two young fellows thinking, being two dancers, that their society would be agreeable, proposed to walk in, but the door-keeper said, "No, I beg your pardon, you have no ticket; you do not belong to us, and I decline to let you in." And very properly. They had no business to go in without tickets, or uninvited; they were served very properly, and it was the subject of a laugh against them; the wanting to go into this ball and being ignominiously repelled. That is a circumstance a man would be likely to remember, getting very much laughed at for wanting to go in to a ball when he had no business there, and having to walk off. On this same visit Roger Tichborne was thrown a great deal into the society of young Nangle; they were first cousins, and they were young men, and it was very natural they should be much together; and Major Nangle tells us that at that time he was courting the lady whom he afterwards married, and he made a confidant of Roger. I remember that the defendant was much pressed in cross-examination as to whether he had not been in the habit of riding over to the house where the future Mrs. Nangle lived, which he denied, and I think it turned out that Major Nangle was not in a position to say that he had ever ridden over with him on his visits to his future bride. Still the fact remains that the defendant did not know that Roger Tichborne had been a confidant of young Nangle's hopes and expectations in the course of his courtship. So much for the visit to Bath. That visit has been used for another purpose. You have had evidence brought before you, to which I shall have to advert by-and-by, that during this stay at Bath Roger Tichborne, being in the dog-cart of Mr. Spurling, got upset at Melksham; on which occasion the chambermaid says she had an opportunity of witnessing his peculiar formation of thumb, and also of seeing that his left arm was devoid of tattoo marks. Now with regard to that she fixes the date as rather in March than February; at all events, she says she remembers Roger coming to Melksham in the month of March as well as in February. I am bound to say that I can find no trace whatever of a second visit to Bath, Roger having returned to Tichborne on the 5th of February, as is proved by two things. In the first place there is the diary of Lady Radcliffe, with an entry of his having left on the 5th, and in the second place a letter from Roger to Mr. Gosford desiring him to send over the dog-cart to take him to Tichborne on the 5th February, showing that Lady Radcliffe's diary is strictly correct.

Having returned from Bath to Tichborne, he remained at Tich-

borne till the 9th of August. Upon his leaving Tichborne at the latter date, Lady Doughty in writing to him speaks of the "eight months' stay" he had been making at Tichborne Park—showing, therefore, that during the whole of that period he was undoubtedly residing at Tichborne. It was during this time that he began to apply himself to the necessary studies to prepare himself for an examination for the army. Just at that time a new regulation had been introduced, requiring that candidates for commissions should pass an examination, a thing before wholly unknown in the army. It was thought desirable to raise the general standard of education—not perhaps that because a man can speak this or that language, or knows this or that of the events of history, he would make a better officer, but on the general well-founded assumption that the better a man is educated, the more his intelligence becomes developed, and the better he becomes fitted for any profession or calling for which he may be destined. It was not exactly known whether in the examinations which were about to be held mathematics or arithmetic would be taken; perhaps both; at all events, it was expected that some proficiency in mathematical science would be required by candidates for commissions in the army. But in the examination Roger underwent he seems not to have been examined in mathematics at all, but in arithmetic, and possibly expecting to be examined in mathematics he had paid more attention to mathematics than to arithmetic, and the consequence was, that being examined in the latter and not in the former, he failed in respect of that subject. But it is a circumstance to be taken along with us that from the early part of 1849 down to the time of his examination he was working at mathematics. Mr. Gosford tells us that he used to come and sit in his office, and there work out his problems, a number of which remained there afterwards for a long time, till finally thinking them all useless, he swept them away; they showed the diligence of Roger in preparing himself in this department of knowledge. At a later time he had recourse to the instruction of a Revd. Mr. Moberly, who lived at a place the name of which is written Owlesbury, but which in fact is pronounced Usselbury, and he was in the habit of going there twice a week to take mathematical lessons from that gentleman, and one would think that going there twice a week for the purpose of taking lessons from Mr. Moberly, even if he forgot the name of Mr. Moberly, he would recollect the name of the place. But when the defendant is asked whether he had taken lessons at Owlesbury, he fails to remember the name, which he afterwards accounts for by saying it should have been pronounced Usselbury, though I should have thought that, having ridden twice a week to the place, he would have perfectly well known, that what was called by the counsel, in cross-examining him, Owlesbury, especially when mentioned in connection

with the name of Mr. Moberly, was the same as Usselbury. I have a letter written to Mr. Hopkins on the 27th of June, shortly before he got his commission: "Dear Sir, I am very sorry at not being able to go to Alresford to see you at half passed 2 as I intended to do"—By-the-by, we have here again one of his peculiarities of spelling: he never spells half past as we should, but uses the participle of the verb to pass, and spells it "passed," confounding between "past" in the way we use it—as indicating that which has gone before in contradistinction to that which is present or to come—and he takes the participle, and spells it "passed;" it is one of his peculiarities which remains to the last—"I have a mathematical lesson and I must go there six miles"—It was six miles to Owlesbury—"By those means I am sorry to say I shall not be able to have the pleasure of seeing you to-day. But if it is convenient to you I should be happy if you allow me to go to Alresford to-morrow at half passed 11 to have the pleasure of seeing you." That letter shows that he was working at his mathematical lessons at that time.

We come now to an event in Roger Tichborne's life which certainly is remarkable. You know that an application had been made by Sir Edward Doughty to the Horse Guards for a commission for his nephew in the month of November 1847. We know from a letter of his father that in 1848 Mr. Seymour took him to the Horse Guards, where they saw Lord Fitzroy Somerset, and reminded him of the promise, and pressed for the commission, and Lord Fitzroy Somerset gave them an assurance that the commission would be forthcoming before very long. Months having, however, passed away, Roger Tichborne began to get impatient about his commission. He was at Tichborne doing nothing, and was anxious to get into the army, and he took a bold step for so young a man: instead of asking his uncle to write to Lord Fitzroy Somerset to remind him that the commission had not been given, he wrote himself, a thing few young men one would imagine would have been likely to do. Instead of saying to his uncle, "the commission does not come, I wish you would write and jog Lord Fitzroy's memory," he sits down and himself writes a letter, dated the 19th of June: "My Lord, I must apologize for taking the liberty of addressing you this letter. But what makes me take such a step, is that I am likely to be obliged to go abroad before long"—I suppose he felt he had stayed at Tichborne as long as he properly could and ought to go to his paternal abode in France—"It is for that reason that I should be most obliged,"—instead of *much* obliged; that is another form of his,—“if your Lordship had the kindness to let me know if there is any hope of having my commission before long. I remain, my Lord, Respectfully yours”—unfortunately leaving out the “t,” which must have rather struck Lord Fitzroy Somerset, as showing

that his correspondent was not well up in orthography—"Respectfully yours, Roger Charles Tichborne." This bold step on the part of the young man proved a successful one, for by the very next post he gets a letter from Lord Fitzroy Somerset, telling him that he is to have a commission in the 6th Dragoon Guards, subject to his passing an examination which would take place on the 2nd of July at Sandhurst. Upon which he writes on the 26th of June, "My Lord, I received the nomination which your Lordship was kind enough to send me this morning, and for which I am very thankful. I shall be at the Royal Military College on the morning of the 2nd July to pass those examinations which are required of me for my admission in the Army." To Lady Doughty, at that time at the convent at Taunton where her daughter was, he writes on the same day: "I wrote as you know last Tuesday to Lord Fitzroy Somerset about my commission, and to my great surprise I received my commission for answer by return of post which was this morning, Thursday. I am named Cornet in the 6th Dragoon Guards, on the condition that I shall pass my examinations at the Royal Military College at Sandhurst at 10 o'clock on the morning of the 2nd of July 1849. The delay is very short. It is what will oblige me to study night and day till that time. I hope to have the pleasure of seeing you before I go. Pray give my love to my cousin. I remain, my dear Aunt, your very affectionate Nephew." I observe he spells there, as he always spells the word, "commission," with a single "m." Upon that Lady Doughty replies to him: "I will certainly find time to write to you on an event of your life on which the future may depend. I congratulate you that you are no longer kept in suspense, but have the certain prospect of a commission if you can pass. I wish the notice had been longer. Do give as much time as you can to study, but I entreat you to give yourself rest at night, for if you exhaust yourself with want of rest you will deprive yourself of the power and energy of mind required to go through your examinations. I have every confidence that you will pass, and I am truly glad that we return next Tuesday, that the last week may be spent together, not, I mean, that it is the last week, for we should hope you would return to us from Parkhurst"—You see the good lady makes a very serious mistake, for she confounds Sandhurst, where the examination was to take place, with Parkhurst, which you know is a very different place—"I imagine after the examination they will allow you some weeks before you join your Regiment. I cannot wish your father to hurry over before you go to Parkhurst. I hope at least that will be quietly got over." The rest of the letter is of no importance. Well, the news of course was communicated to Paris that he had received his commission. How it was received there I think you may judge by the next letter, which is a letter

written by Mr. Tichborne to Miss Louisa Seymour, now Lady Rawlinson.

"I was delighted at the prospect of my dear Roger's entering the Army since he is so anxious for it, and most sincerely do I wish he may pass through his examination successfully. I am sorry to say, however, that his mother is dreadfully vexed and annoyed at the idea of his becoming a militaire, and is excessively displeased with me for having given my consent to his doing so. She says she is quite sure he will be packed off for India immediately. As soon as Roger's letter arrived she sat down and penned a long letter to your papa, and which she wanted to read to me, but I refused to listen to it as I was very sure I should not approve of the contents, and I also thought it probable your papa should not answer it. However, I have constantly endeavoured to avoid all discussion with Henriette upon this subject, for, whatever may be my opinion the feelings of a mother must always be respected. I own I have a very great objection to a young man's leading a totally idle life."

To this disturbance at home, occasioned by Roger Tichborne getting his commission, he afterwards refers, and speaks of it as "the great blow-up" that took place on his being appointed to the army. It is quite plain here that the mother disagreed with the father. The father, however, had the concurrence of her Seymour relations, as well as of the Tichborne family, as to the expediency of letting Roger Tichborne go for a time into the army as a school in which he would be well trained, and in which the defects of his education might to a certain extent be made up for.

Examination
at Sandhurst.

I proceed with the narrative:—As the examination at Sandhurst was to take place almost immediately, the father, knowing that the two Colonel Greenwoods were both men of standing in the army, writes to request that one of them would accompany Roger to Sandhurst on the occasion of the examination. A young man, altogether without experience of the world, and speaking, as he did then, defective English, might, on going there, stand a chance of being looked upon unfavourably by the examiners, unless he had the advantage of being introduced by some person of standing in the military world. Accordingly, it was thought desirable that one of the two Colonels should go over and introduce him to the professors, and show that he was not a nobody; and Colonel George Greenwood undertook this task. He and Roger went on Sunday, the 1st of July, to Sandhurst, in order to be ready for the examination on the next day. When they got to Sandhurst, there were so many young men going to be examined for commissions, who were there with their fathers or friends, that the "Duke of York" Hotel at Sandhurst was found to be full. The result was, that they could not get accommodation there, and the colonel and his protégé had to go back to

Farnborough, which is, as you know, the station in the neighbourhood of Sandhurst, and had to dine and sleep at a little public-house near there, called the "Tumble-down Dick." In the meantime, Mr. Danby Seymour had come down from town for the purpose of being with Roger at the examination and introducing him to the persons he knew. When he got to the Farnborough station, he found that Roger and the colonel were at this public-house. Thinking therefore that there was no necessity for his being present the next day, he merely dined with them and went back in the evening to London. The next morning Colonel Greenwood and Roger went to Sandhurst. Colonel Greenwood was then able to get a room at the "Duke of York" for breakfast, and finding there were a good many persons there who could not get accommodation, he said that anybody was welcome to use the room for breakfast, and amongst those who did so were Mr. Delmé Radcliffe and his son. A good many questions have been asked with reference to these matters, which is my reason for going into details which otherwise might appear very unimportant; they are points on which the defendant was examined, and on which his answers were more or less inaccurate, as you will see by-and-by. Well, Roger Tichborne went in for his examination. He was examined in English, in history, in geography, in French, in arithmetic, and in fortification. He had the option of Latin, French, or German, and he naturally preferred French, the language with which of all others, so far as speaking it, or translating it into English was concerned, he was the most familiar, and he therefore chose it. It has been asked, if he had acquired a knowledge of Latin, would he not have chosen Latin in preference to French? We all know that he had not acquired any decided proficiency in Latin; French was his mother tongue, and he naturally chose French. Well, he passed in history, he passed in geography, he passed in that which was more particularly a branch of military knowledge, fortification, and he passed in French. Unfortunately, he failed in arithmetic; and when one looks at the sum he had to solve, one cannot help thinking it likely that his curious foreign fashion in working out a somewhat complicated sum may to a very considerable extent have misled the examiner, who probably was unused to anything of the sort, and he may have given him credit for less ability in arithmetic than Roger Tichborne really possessed. However that may be, he failed in that department; he did not at first know that he had failed in it; he had done so well in the others—indeed, he had been told by the professors that he had done well—that he fully believed he had passed. I should notice a fact which we now know from Colonel Greenwood, namely, that they returned to Hampshire the same day that the examination took place. They did not stay two or three days, as the defendant has stated; the examination did not last two or three days, but only one,

and they returned to Hampshire that same night. On the next day, July 3rd, Roger Tichborne writes thus to Mr. Seymour:—"Dear Sir, I am happy to inform you that I have passed my examinations yesterday at Sandhurst. I have answered to every question which they asked in all the different branch"—a mistake for branches—"of study which they required me to know for my admission in the army, all the professors signed a paper which proved that I knew well what they examined me upon. That paper was send to the Horse Guards"—"send" for "sent" is one of his characteristic mistakes, and one which a foreigner would not be unlikely to fall into; where a verb has its past tense formed, not according to the normal rule, but in an irregular form, it is easy for a foreigner to make a mistake about it. In words that end in "nd"—ascend, bend, spend, lend, he invariably makes the preterite the same as the present tense, instead of either adding "ed," or converting the "d" into a "t;" you will find the same thing throughout his letters—he continues "and the report is to be made to-day. I was told by the Colonel who examined me on fortifications that I would hear from the Horse Guards in the course of this week. I shall be very happy to let you know when I shall receive my comission"—commission spelt as usual with one "m."—"Pray remember me most kindly to Mrs. Seymour and to all of yours. I remain Dear Sir Truly yours, R. C. Tichborne."

Removal to
London.

It turned out, as I have said, that he was mistaken in thinking that he had passed in everything; but he seems to have passed satisfactorily, except in arithmetic. It is even probable that owing to his having done very well in the other subjects they did not reject him on account of his failing in that; for they accepted him, subject only to a further examination in the one particular branch in which he had failed, prior to his being allowed to join the regiment, and even that was afterwards dispensed with. Whether they said he must pass another examination before going into the regiment, but told him afterwards that if he could get certificates of mathematical proficiency that would do, I do not know. Possibly, Colonel Greenwood, or some one on Roger's behalf, may have said that having failed only in arithmetic, he would give himself to its study, on which they said, "Very well, if he can satisfy us in that respect we will dispense with the second examination." In order to obtain more efficient instruction he now gave up Mr. Moberly, the gentleman at Owlesbury, and proceeded to London to have the benefit of some higher master. I ask you to bear these things in mind—the various stages of his progress throughout this year 1849—because they have been made, and very properly made, tests of the defendant's knowledge of the events of the life of Roger Tichborne at this period. You will observe that up to the time of his going to the examination at Sandhurst on the 2nd of July, Roger was staying at Tichborne, working at his

problems there, and receiving instructions from Mr. Moberly, the clergyman at Owlesbury, in that neighbourhood; that he does not leave Tichborne for the purpose of studying in London or receiving instruction in London with a view to the examination at Sandhurst at all:—he goes up to London in order to obtain better and more effectual instruction, not with a view to the examination at Sandhurst, which had passed, but to make good the deficiency in the one department in which he had failed at that examination. He comes up to London and stays at the house of Mr. Seymour, the father, at 39, Upper Grosvenor Street. I should observe that before going to town he writes a letter to Mr. Henry Seymour of the 25th of July, in which he says: “I read with attention what you answered to my letter about my outfit; I perfectly agree with you that there is more time than is wanted to get it all ready (Dont mention a word of what I say to anybody) but the reason why I wish to be measured before my Father comes over to England is this, My Father as you know is so very changeable that perhaps my mother who is not in the least partial to my getting into the army”—then comes a little break in the composition, he seems to have got into a bewilderment—“what I fear for those reasons which I have just explained is this that if she gets again the upper hand over my father she will make him change, and if I am measured for my outfit before he comes to England there will be no drawing back. Here are my reasons for wishing to go to the Tailor so soon.”—Well, he goes up to London, and stays at the house of Mr. Seymour in Upper Grosvenor Street. As showing that he was quite aware of the name of Moberly, as the gentleman who had instructed him, and that of the place where Mr. Moberly resided, I find a letter written from Upper Grosvenor Street to Mr. Vincent Gosford, dated the 10th of September, in which he says: “Dear Sir, I should feel very much obliged to you if you had the kindness to ride or send a note to Mr. Maburly, at Owsbury, to let him know that I don’t intend to take any more lessons from him at present.” This shows that he was perfectly well aware, within a trifle—he does not spell it quite accurately—of the written name of the place, at which Mr. Moberly resided—“I should also be much obliged to you if you paid him the lessons which I have taken from him, and to let me know how much it is, that I may send you a post office order for that sum by return of post. What makes me write to you about it is this, I have received two letters from him to let me know that the time for joining my Regiment is close by, and that I ought to study. I am going to write to him that I am studying in London, and that I cannot go to him at present. I should be very much obliged to you if settle with him as soon as possible. Pray answer me by return of post.” This shows very plainly that Roger Tichborne knew both the name of Mr. Moberly, which he naturally would do, as he had so frequently gone to take lessons from

him, and that he knew the name of the place at which Mr. Moberly resided. You will have, by-and-by, to judge whether, if that name had been submitted to Roger Tichborne as a place where he had been in the habit of going to receive mathematical lessons, he would not have known, although the name was pronounced Owlesbury, that it was, in fact, the same place as was known in the country by the name of Usselbury. When in London he gets a letter from Lady Doughty, a passage from which I will read, because it shows very plainly how long and constantly he had been staying at Tichborne, on which a question will arise by-and-by. It is dated Saturday. "I shall begin this letter to-day tho' no post will prevent my sending it till to-morrow (Sunday) when perhaps I may receive the letter you promise me in your Uncle's. *He was much* gratified by hearing from you so soon, & I am delighted you thought of writing to him. If it would give you a little self-love or self-esteem, both of which you require, I would tell you how very much you are missed by us all"—after the character you have heard given of Roger, it is worthy of notice with how much affection, tenderness, and even respect, these relations of his write to him—"I would tell you how very much you are missed by us all—for my part eight months has so habituated me to see you, that the loss of you to tease or scold, together with my child being established in the school-room"—Miss Doughty had then returned home from the convent at Taunton, and was staying at Tichborne—"makes me feel quite *desœuvre*, and the riders missed you sadly yesterday when they took a long ride thro' the Grange to Mitchel-dever." Then there are other things which being but gossip I pass over. "Monday—I wrote the above letter on Saturday but could not find a moment to finish yesterday. Probably you know ere this that in answer to a kind explanatory letter your Uncle sent to your Father on Friday he has written a kind one in return and begs the past may be buried in oblivion, and proposes to come and bring Alfred here after our return from the sea." Then she says, "I shall surprise you by telling you that we shall pass thro' town next Wednesday Afternoon & embark at St. Katherines Wharf that same evening for Scotland. We shall reach Edinburgh on Friday please God. Your Uncle took this determination in consequence of Mr. Lyford recommending total change of climate and a sea voyage as likely to do both him and me good—he at once decided on Edinburgh which he has never seen and I am too happy to go to my dear Sister and Col. Macdonnel. We shall remain some weeks there but return the end of Sept^{ber} to receive your father." Then she tells him they will be in town on the day she has named, at a certain hour, and begs him to come and meet them at five o'clock in the afternoon, and to dine with them at Blackwall. They were about to go by steamship to Edinburgh, and came to London for that purpose, and thereupon begged of Roger to come and meet them, that they might dine

together. It was on that occasion that Roger made a particular communication to his aunt. He took the opportunity of that short meeting to whisper a word in her ear, which is associated with the one romance of his life—I mean his love for his cousin. Miss Doughty had returned to Tichborne from her school life at the convent school at Taunton at the beginning of the vacation in June, 1849, while Roger Tichborne was staying there. The two cousins had only met three or four days at Bath at the commencement of that year. Before that time they had not met for many years, owing to the different periods of the year at which their respective vacations took place; but in 1849 she came back to stay permanently at home, at least so it was intended at that time, and Roger Tichborne fell in love with her. Perhaps it was only at this time a nascent affection, but the first germ of it was lodged in his heart, and it never left him. One traces it to the last hour of his unquestioned life. It appears that he made some communication on the subject to Lady Doughty in perfect confidence and under a promise of secrecy. I shall trace this passion of Roger Tichborne throughout its whole course. It forms one of the most remarkable and important parts of this inquiry, and is, it appears to me, one of the most material topics with which we have to deal as a crucial test of the identity of the defendant. At this time Lady Doughty does not appear to have discouraged him. That in the progress of time she conceived a different view of it from that which she may have entertained at first—that her mind vacillated backwards and forwards—that she sometimes thought of the possible union of her daughter with her nephew, while at another time she entertained the strongest objection to it, seems pretty plain from the correspondence. There were things which tended to make her think such a union desirable; there were other things which operated in the contrary way. In the first place, in a worldly point of view, the match was all she could desire for her daughter. Miss Doughty, by marrying her cousin, would become the maternal head of the old house of Tichborne; she would be mistress of Tichborne Park, with all the advantages which that position could give; she would be the wife of a man with a large and an ample fortune. Nothing, in point of worldly and social consideration, could be better. Moreover, it is very plain from Lady Doughty's letters that in many respects she esteemed Roger; and it is beyond all possibility of doubt that she loved him with a most sincere and almost motherly affection. But then there were considerations which operated in the opposite direction. In the first place, there was the near relationship. Very many persons think a marriage between first cousins objectionable on the score of too great propinquity in the matter of relationship; and to Roman Catholics this applies much more forcibly than to those who do not belong to that religion, because it is a union which the Roman

Catholic Church—of which the Roman Catholics deem the authority superior to everything—discountenances and discourages; and, although dispensations are granted, still the union is one which is not looked upon with favour. And Lady Doughty knew perfectly well that this was an opinion which her husband strongly entertained, and which, as far as she knew and believed, Roger's father also shared. There would be, therefore, considerable obstacles and difficulties in that respect; and, unfortunately, there was a still more cogent reason operating on her mind to make her very reluctant to encourage this attachment, and that was that she saw in Roger Tichborne what she believed to be the germ of evil. She knew he was in the habit of reading bad books—books which she thought of the most abandoned and disreputable character; and it had been whispered in her ear that Roger Tichborne was not a paragon of virtue. I do not believe that Roger Tichborne was a whit worse than one-half of the young men in the world, but it is a mistake to suppose that he was the impersonation of immaculate purity which on more than one occasion it has been sought to represent him; and Lady Doughty had a notion that Roger Tichborne was not as strict in point of morals as a young man ought to be. Of course, a lady like Lady Doughty who was unaware of the ways of the world was very much shocked at the notion of any departure from the rule of moral propriety; but, however, it was not so much that. Young men are young men. We know very well what college life and military life is in that respect; but young men sow their wild oats and do not make any the worse husbands; they settle down, they find what the charm of domestic life and happiness is, and everything goes smooth and well, though a young man may have been a little wild. But there is a vice which, if it takes possession of a man, is very seldom shaken off, and that is the vice of intemperance; and Lady Doughty soon became aware of the propensity of Roger to take too much. I believe there has been great exaggeration in this respect—that is, if it is meant to be implied that he was an habitual drunkard, a man who drinks till he becomes what the drunkard is, something on a level with the beasts of the field—who destroys all the superior gifts of man by this degrading and debasing vice. Roger Tichborne was not an habitual drunkard; I do not suppose he drank more than, if you were to go back fifty or sixty years, was usual. In the days of our forefathers, the more bottles a man could drink without tumbling under the table the higher was considered his social merit. Happily we have passed that period—I hope never to return to it. A man who now takes more than is ordinarily allowed by the social standard is looked upon as a lost man. Now Roger Tichborne was a person of sluggish and inert nature, intellectually as well as physically. He had undergone weakening processes. They had tormented him when a boy and exhausted his vital energy by that abominable issue, kept open for three years. When

there was anything the matter with him, they had recourse to the pernicious practice of bleeding (which I am happy to think has gone out like drunkenness), and he had been subjected to this two or three times; he seems also to have been occasionally subject—as many people are—to low spirits and a disposition to despondency, not looking to the bright side of things, but on the contrary, to the dark and gloomy side of life and its surroundings. When he had got his bottle of wine he found himself lively and in good spirits, and so, I daresay, he was induced to take more than was desirable; and once or twice—but only once or twice, so far as we know—he exhibited the effects of this undue indulgence, and Lady Doughty became aware of it. Now, I suppose there is hardly anything a mother would shrink from with greater horror than the notion of marrying her daughter to a man who either was, or had a predisposition to become, a drunkard. Nothing so debases a man in the eyes of those by whom he is surrounded; nothing can have a greater tendency to make the life both of his wife and children a miserable one than that a man should be a drunkard. Lady Doughty therefore naturally shrunk from giving her daughter to Roger. At the same time, his protestations of reform were so strenuous, and apparently so sincere, that at times her disposition to put an end to this attachment gave way, and she still thought of the union of the two cousins as possible. I am not sure that she was not playing a little with Roger—for a very honest and legitimate purpose it is true, but which still, if it was the motive which actuated her, made her conduct not quite candid or fair. She had a dread of Roger going to India; he was the hope of the family; he was the future heir of Tichborne, who was to perpetuate the race. There were but two left, himself and his brother, and if they failed the name of Tichborne would be extinct; and that the elder of the two brothers, the heir to the title and the name, should go to India, and be exposed to the dangerous climate, with the possibility of being engaged in warfare there, was a thing which seems to have struck poor Lady Doughty, as it did the other relations, with perfect horror; so, on more than one occasion, she refers to his attachment as a reason why he should not go to India with his regiment; or why, if his regiment did not go to India, he should not exchange into another in order to go there, as he again and again threatened to do. She put it to him that he was capable of creating an attachment, and that he might form a union—pointing very plainly, I cannot but think, to her daughter—by means of which, instead of exposing his life to the dangers of a trying climate, or to the chances of war and battle, he might lead a happy domestic life in the old Hall of Tichborne, surrounded by every means of happiness and enjoyment which this life could afford. I cannot help thinking that Lady Doughty did, to a certain extent, hold this out to him for the purpose of keeping him in England, without having, perhaps, made up her mind to let the mar-

riage take place, or to use her influence with her husband in getting his consent. You will be better able to judge of that when I come to read the letters. The matter was brought to a crisis at a visit which Roger Tichborne paid at Tichborne in January 1852. With all that matter we shall have to deal hereafter. I have only given you an outline of what I conceive to have been the working of Lady Doughty's mind at the earlier period, in order that, when I come to give you the letters somewhat more in detail, you will be able to see whether your judgment agrees with mine as to what was operating on the mind of Lady Doughty, what was passing in her thoughts, what were her motives and intentions.

Property.

There is another subject which comes into play at this same period, and it is one of equal importance, not as regards the interest involved in it, but as a test of the defendant's identity: it is that which relates to the estates both of Tichborne and Doughty. In Roger Tichborne's time some great and most important changes were introduced into the dispositions of the family property. In those changes Roger bore a prominent part, and the question will be whether in what he did with reference to the alteration in the disposition of those estates, he was a passive tool or an intelligent actor. If Roger Tichborne understood all that was done by himself in respect to the alterations that were carried into effect about the Tichborne and Doughty estates, he could not, I apprehend, possibly have forgotten what he then did. You will hereafter have to consider whether the defendant, who was asked as to what was done with regard to the property, had the most remote conception of what was the state of the Tichborne property, or what was the state of the Doughty property, or of what was done in respect of either. If he showed a fair knowledge, I cannot conceive anything which ought to operate more strongly in his favour, provided always that you should be satisfied that that knowledge was the genuine reproduction of his own mind and memory and not derived from extraneous sources. But if, on the other hand, you come to the conclusion that he knew nothing in the world about the dispositions of the property, either as it existed before Roger Tichborne interfered or afterwards, this would be, in my opinion, unless you can come to the conclusion that these are matters he could possibly forget, or, as his counsel suggested, that the man's memory has become so imperfect and impaired that he does not remember anything, a fatal difficulty in the defendant's way.

Tichborne
Estate.

Let me, in the first place, give you a short account of the property as it stood at the time I am referring to. Roger Tichborne would come of age on the 5th of January 1850, and upon his coming of age a resettlement of the Doughty estate could be effected. What I want you, first of all, to consider is, as I have

said, how far Roger Tichborne was an intelligent actor in that which is about to take place. But in order that you may be able to form a judgment upon that point, it is necessary that I should tell you what he did, and in order to make you understand what he did, it is necessary that you should be made fully aware of what was the state of things prior to Roger Tichborne's interference. Now the property to which the heir of Tichborne would be entitled consisted of two distinct sets of estates, acquired and held under altogether different titles. There was, in the first place, the old Tichborne property which had been in the family from generation to generation from a time prior to the Norman Conquest. Added to that Tichborne property were two other estates which had been recently bought, the one called Old Court at Pryor's Dean, and the other a place called Whitears in the immediate vicinity of Tichborne.

Before I tell you how the Tichborne property stood, let me explain to you, in terms, so far as I can possibly use them, altogether unaffected by technicality in any way, what the position of a person is with reference to an entailed property where he is in the entail. I explain this for the benefit of any gentleman who may not be so conversant with the law of real property as to know beforehand what I am about to state, for it is desirable that it should be made perfectly intelligible. An estate may be held in what is called fee-simple—in which case the owner has the absolute power to dispose of the property in any way he pleases, by sale or by mortgage, by giving it, or by disposing of it by deed or will. If you have such an estate, you have an absolute dominion and power over it to do what you please with it. But an estate by the law of England may be what is called entailed; that is to say, it may be so settled as that, although you may have the present enjoyment of it, it is not in your power to prevent the devolution of the title and the estate to those upon whom it may be settled after you. Such is the case where an estate is granted to you and to the heirs of your body, as distinguished from your heirs general, and which, failing the heirs of your body, may be settled on others in remainder. Such an estate is said to be entailed. You cannot without first getting rid of the entail dispose of that property to the prejudice of those who are in the entail after you, and who are entitled to succeed when your estate is determined. Of such an estate you cannot dispose unless you get rid of the entail; but you may get rid of the entail by a certain process which the law recognises, and which a statute has prescribed. But in order to get rid of the entail, you must be in a certain position. If you are tenant in tail in possession, and the estate is thus in you, though on the failure of your issue it is by the settlement to pass under the entail to some one else, you may, by what is called a disentailing deed, get rid of the entail, liberate the estate altogether

from the effect of it, and by the proper process convert that which was an estate in tail, as it is called, into an absolute fee-simple, so that you may dispose of it. But supposing you are not actually in possession as tenant in tail; that there is a prior estate for life, while you have an estate in tail in remainder, as it is called—that is to say that, upon the expiration of the estate for life, that estate being determined, the estate will be yours in possession—then neither the tenant for life, nor you, the remainderman, can alone disentail the estate; but if the two parties, the man at present in possession for life, and the man who will come into possession at the expiration of the estate for life, concur, they together may execute concurrently a disentailing deed, and resettle the estate in fee-simple, or in any other manner they please. Therefore, supposing you have a person who is tenant for life with remainder to some one in tail, the tenant for life cannot touch the entail; nor, as long as the estate for life remains, can the man who has the remainder, that is, who is to succeed to the estate in tail as soon as the life interest has expired, because he is not tenant in possession; but if the two concur, one being the tenant for life, and the other the tenant in tail in remainder, they can, by the joint operation of their concurrent will, and the necessary deed executed by both, get rid of the entail.

Now, the Tichborne estate at the time in question stood in this position. By a settlement executed in 1844, when Sir Henry Joseph Tichborne was still living, the Tichborne estate was limited, first, to Sir Edward Doughty for life, with remainder to the heirs of his body in tail. Then came Mr. James Tichborne, the next brother, for life, with remainder to his eldest son, not in tail, but for life, with remainder to the heirs male of his body in tail. So that, Roger's father having only an estate for life, and he having only an estate for life, neither of them was in a position to bar the entail to the Tichborne property, nor could the entail of that estate be got rid of until such time as Roger himself should have a son who should attain the age of 21. When Roger had a son who attained the age of 21, if that son concurred to bar the entail, they could execute a disentailing deed, and get rid of it; but as things stood, Roger Tichborne not being married, and having no children, and having only an estate for life, there was no estate of inheritance in remainder of which the party possessed could by concurring with the tenant for life get rid of the entail. The Tichborne property, therefore, could not be touched; there was no power short of an Act of Parliament which could enable anybody to get rid of the entail of the Tichborne estate, or to vary or alter the dispositions of it in any respect. Now, the Tichborne property was heavily incumbered, and that had arisen in this way: When the settlement was executed, the

limitations of which I have been describing, the estate had been charged by it with heavy incumbrances. In the first place, it had been charged with 24,000*l.* for the benefit of Sir Henry Tichborne's daughters. Their portions were made up by the sale of other property—Tichborne Street and property in London—to a larger sum, adequate to their position in the world; but in addition to this there had been charged upon Tichborne for their benefit the sum of 24,000*l.* In addition to this there was charged upon Tichborne by that settlement a sum of 32,000*l.*, for the benefit of Miss Doughty, and that arose in this way: by the terms of the will of Miss Doughty, the lady who left the property to Mr. Edward, afterwards Sir Edward Doughty, there was only a power to charge the Doughty property, large as it was, with a sum of 8,000*l.* for Miss Doughty's benefit. But 8,000*l.* was a very inadequate dowry for the only daughter of a man, the possessor of estates worth at least from 15,000*l.* to 20,000*l.* a year. But Sir Edward Doughty, then Mr. Doughty, was able to make it up to his daughter in another way. It seems that in some prior settlement—I am not aware whether by deed, or will—but in some prior disposition of the Tichborne property—whether they had disentailed it from any former entail, or whether it stood free as an estate in fee-simple, I do not know, nor is it material—but in some former disposition of the Tichborne property, whereas it was intended that there should be a remainder to Mr. Edward Tichborne, not in tail, but for life, by some mistake of the conveyancer he was made to take an estate tail in remainder, and the effect of that would have been that, as soon as he came into possession he could disentail the Tichborne property, and dispose of it as he pleased, and, if he thought proper, instead of allowing it to go, as it always had done, with the Tichborne title, he could give the whole of it to his daughter. But he did not desire to do any thing of the kind. All he wished was that an adequate and fair provision should be made for his daughter. He could not wish, and had not it in his mind and heart to dispossess the Tichborne title of the property which ought to go with it; and it was very easy to arrange matters in this way. He could not charge the Doughty estates with more than the 8,000*l.* to which his power was limited by Miss Doughty's will; but by a fresh settlement executed by his brother and himself of Tichborne, they could charge Tichborne with such a sum as would make up what would be a competent and proper dowry for Miss Doughty; and inasmuch as she had 8,000*l.* on the Doughty estates, if they gave her 32,000*l.* on the Tichborne estates, it would make up her dowry to 40,000*l.*, an adequate sum for a young lady, even the daughter of a man of such large fortune; while no injustice would be done, according to the scheme they had in their minds, to Tichborne; and for this reason, namely, that the whole of the Doughty estates would one day come

into the possession of the future heir of Tichborne; and as whenever the future heir should attain the age of twenty-one, it would be perfectly easy to disentail the Doughty estates, and to settle them anew, and to impose any charge they might think proper upon those estates under the terms of such settlement, the matter might then be adjusted by disposing of or charging any part of the Doughty estates for the purpose of liberating Tichborne; by which means Miss Doughty would have justice abundantly done to her claims, while the Tichborne estates would not be in any way prejudiced, although there had been for the time a heavy burden placed upon them. Besides the incumbrances on Tichborne proper, there were also charges which attached to the smaller properties of Old Court and Whitears. The first of these, Old Court at Prior's Dean, had been bought by Sir James himself for 2,374*l.*; it had been settled to the same uses as the Tichborne estate proper, with this difference, that instead of the remainder, as was the case with the Tichborne property, being to the right heirs of the settlor, Sir Henry Joseph, this was settled, after the estate tail should have expired, to the heirs general of Mr. James Tichborne; but the property remained charged with that 2,374*l.* to him. The other small property, called Whitears, had been bought by Sir Edward Doughty for 2,200*l.*, but 2,000*l.* out of it had been found by Mr. James Tichborne, and that property owed Mr. James Tichborne that amount, which remained charged upon it. And the interest in 3,000*l.* in these properties had been made over to the trustees of Mr. Tichborne's marriage settlement, under which he had covenanted to find a sum of 6,000*l.* for the joint use of his wife and himself, afterwards to go to the children, while Mr. Seymour was to find another 6,000*l.*, and he had satisfied 3,000*l.* of the 6,000*l.* that he was to furnish by a charge on this particular property.

By one of the JURY: The rent of the Tichborne estates was only about 5,000*l.* a year.

The LORD CHIEF JUSTICE: I was going to say so. The effect upon Tichborne for the time would have been very grievous indeed, because the rental of Tichborne was, as you have very truly observed, no more than from 5,000*l.* to 6,000*l.* a year; and if you include the two small additional properties, of which I have been speaking, and which had been recently acquired, the whole rental could not have exceeded 6,000*l.* a year. Now on an estate of 6,000*l.* a year an incumbrance of 60,000*l.* is of course a very heavy burden indeed; but if you could take from Doughty that which would make Tichborne free, no harm at all would be done to the paternal and family estates; while on the other hand, perfect justice would be done to the pretensions of Miss Doughty. This then was the scheme they had in view, namely, when Roger came of age—for his concurrence was necessary, and

that concurrence could not be given until he was of age—to disentail the Doughty estate, and to sell—not to raise the sum which they afterwards did raise for the purpose to which I have referred, but to sell—a considerable portion of the Doughty estates, in order to raise a sufficient sum to discharge the burden previously imposed on the Tichborne estate. It occurred to the brothers, and some persons may think very wisely, that two family seats were one too many, and that Upton would only be an incumbrance. The old ancestral seat, where the family had lived in honour from generation to generation, was Tichborne. It was as a distinguished family in the county of Hampshire that the Tichbornes were of consequence; it was natural, therefore, that they should wish, as far as possible, to aggrandise Tichborne. The Doughty estates had come into the family but recently; they cared little or nothing for them, except so far as their pecuniary value was concerned. What was to them an estate in Buckinghamshire? What to them an estate, however productive, in Lincolnshire? What cared they for property in Surrey? or for property in the neighbourhood of Gray's Inn Lane? or for property in Dorsetshire? The latter had only been recently acquired by the trustees of the Doughty estate, or purchased by Sir Edward Doughty. The scheme therefore was to sell Upton and everything belonging to it, and make the proceeds of the sale available for the purpose of setting Tichborne free: further, they proposed, as in all probability the Upton property would not suffice for that purpose, either to sell other property belonging to the Doughty estates, or to raise a sufficient sum by mortgage, than which nothing would be more easy, considering the great value of the estate, and so to find money to free Tichborne from the incumbrance fixed upon it. Well, this was a very sagacious and very taking scheme, and those who proposed it—I believe Mr. Hopkins, the old family solicitor, who understood how the property stood, was at the bottom of it—thought it a thing that might very easily be brought about.

We have seen how property entailed can be disentailed. The Doughty property, I must now explain to you, stood on a very different footing from that on which Tichborne stood; for there the remainder to Roger was not a life remainder, as it was in the case of the Tichborne estate; it was a remainder in tail. By the will of Miss Doughty, and the deeds executed in conformity with the powers of that will, and under the directions of that will, the estate stood limited to Sir Edward Doughty for life, with remainder to the heirs male of his body; the next remainder was to Mr. James Tichborne for life, with remainder again to the heirs male of his body, and the heir male of his body was Roger. Roger, therefore, had an estate tail in remainder, and not, as he had in the Tichborne estate, an estate for life only: consequently, there was no necessity to wait till

he should have children and his eldest son should come of age; and, by the concurrent action of Roger, and of the two estates for life which preceded his estate in remainder, in executing a disentailing deed, the property could be disentailed the moment Roger Tichborne came of age, and could be re-settled in such manner as they should think fit. The event of Roger coming of age was looked forward to, therefore, as an opportunity for immediately carrying into effect what the two elder persons, the uncle and the father, had had in their minds ever since the execution of the settlement of Tichborne in 1844; and accordingly Mr. Hopkins, who was instructed to moot this to Roger Tichborne, and explain to him what was required to be done, took for granted that when he did so, there would not be the slightest difficulty, and that Roger would at once enter into the scheme, and readily acquiesce in that which was proposed by his father and uncle. Mr. Hopkins naturally thought that the young man would at once yield to their wishes, and not dream of resisting the desire of his uncle and father. The three altogether mistook their man. Roger Tichborne was not a young man to be dictated to in a matter of that description, and he had already conceived in his mind a totally different scheme, which he persisted in carrying out, and did carry out. He had in his mind the idea of creating a second family, which should owe its position and estates to him. I do not know whether he had got the notion into his head that 20,000*l.* or 25,000*l.* a year was too large a property for one individual; but one thing is quite clear, that from the earliest time at which he could form a judgment or intention on a matter of that kind, he made up his mind that Upton should become the seat of a second family, with half the estate or thereabouts appropriated to that particular branch. If he lived, of course, he intended to have the enjoyment of the whole undivided property; but he had made up his mind that Upton should not be sold, in order that whenever he died, if he had a second son, Upton, as the seat of a second family, with a portion of the estate attached to it, should go to that second son. He had also made up his mind, that if he did not marry, or marrying had no children, the same thing should be established with reference to his brother Alfred. Alfred for his life should have the same advantage as himself, but when Alfred died—the eldest son taking Tichborne, which of course he would take as of right, and with which Roger had no power or desire to interfere—the second son should have Upton with a portion of the Doughty property—with which property it would be in Roger's power to deal when the estate was disentailed, and he had thereby the power of disposing of it. He had this scheme in his mind to be afterwards carried into execution, but he did not communicate it to any one. He kept it locked up in the recesses of his own breast, until such time as the plan was ripe for execution; but

when Mr. Hopkins proposed to him to disentail the Doughty estates and to resettle them, so that a power might be acquired to sell Upton and the Upton property, together with such other property as might be necessary for raising a sum to free Tichborne, and also to aggrandize the Tichborne estate, he resolutely resisted the proposal, and would not give in to it. Now what I want you to follow me for, in the letters we are coming to, is that you may be able to satisfy yourselves whether in this resistance, and in what Roger afterwards did in respect of the settlement of the Doughty estate in 1850, and in the still more important document, the will made in 1852, to the details of which I shall have to call your attention hereafter—whether in all these things he was merely a passive instrument, or was acting on his own judgment and by virtue of his own intelligence, understanding thoroughly everything he was doing. It has been suggested on the part of the learned counsel for the defendant, with the view to cover the ignorance exhibited by the defendant with regard to the disposition of this property, that Roger Tichborne was merely the passive instrument and creature of Gosford. There are very strong reasons, I think, for coming to a different conclusion, inasmuch as it seems to me very plain that it was to the interest of Mr. Gosford to keep the property together and not to allow it to be divided, as in the latter case he would lose the stewardship of half. But irrespective of any such extrinsic consideration, I want you to follow these letters so as to form your own independent judgment as to whether Roger did or did not thoroughly understand what he was about, and take the utmost pains to make himself perfectly master of the subject; and whether he did not exhibit a firm resolution not to be hurried into any step the precise consequences of which he did not understand; and before he finally executed that instrument, which in the event of his death would be irrevocable, and would operate in all time, he did not take the most remarkable pains thoroughly to understand and to master all the details of it. When I come to show you by-and-by what the defendant has said upon the subject of the disposition of these estates, under the settlement of 1844 as regards Tichborne, under the settlement of 1850 and the will of Roger Tichborne as regards Doughty, you will see the infinite importance of the inquiry which I am inviting you to enter upon, namely, whether Roger did or not understand what he was about in executing the various instruments to which he affixed his signature.

Now, Mr. Hopkins had spoken to him on this subject very shortly after he came up to London. He came up, as we know, on the 9th of August, and stayed in Upper Seymour Street for the purpose of going on with his mathematical studies. Mr. Hopkins comes to town and sees him on the subject of this proposed disentailing and

resettling of the Doughty estate, and Mr. Hopkins appears to have been staggered by the resistance of this young man, and his refusal to do what it had been supposed it would be only necessary to propose to him to insure his perfect acquiescence. Roger writes to him, "My dear Sir,—have not been able to answer your letter yesterday as I wished it at first I have been very busy all day long yesterday so that I had but little time to myself. I am sorry to see by your letter"—Mr. Hopkins having written to him in the meanwhile—"that the conversation which we had on Wednesday embarrasses you so very much about the Doughty Estates." Of course it took Mr. Hopkins all-a-back. There was his scheme all ready prepared, and he expected to have nothing to do but to instruct the conveyancers to go to work to carry it out. No so. Roger continues. "I refused, that is true, to give a definitive answer before I come to 21, but at the same time I cannot help thinking, when I think of what those papers which you were so kind as to lend me and which I read with much attention"—then there is something wanting—"that many of those papers which are to be drawn, could be drawn during this time and next January as they are relative to family settlements. I hope that you will excuse me not writing a longer letter to day it is nearly 5 o'clock. But on Monday I will make it a point to write you a longer letter." In other words:—"You may go on with those deeds which merely refer to the disentailing of the property. When you come to that part of it which relates to the resettlement hold your hand; I am not going to execute that until I thoroughly understand what it is you propose to do and until I altogether assent to what you propose to do; but in the meantime as regards the disentailing deeds, go on with those, they will be ready to be executed whenever we have agreed on what shall be the scheme for future settlement." Mr. Hopkins appears to have written to him again on the subject, and Roger answers: "I was not able to give to my letter of last Saturday all the extend"—meant for extent—"I could have wished for want of time. I should be sorry that my too long a delay should trouble you in the least to know what answer to make to my Father. I shall be of age in four months and a half, and I ask that time to be able to make up my mind in such a manner that later in life I may not reproach myself to have acted without having well thought about what I was to do." After this the correspondence with Mr. Hopkins is interrupted for a time, and other correspondence intervenes.

In the meantime, Lady Doughty and her daughter had gone to Scotland, and were now at Edinburgh; and from thence we have a letter from Lady Doughty on a totally different subject, which shows that Roger Tichborne was not addicted merely to the loose literature of Paul de Kock's novels, that he did not pass all his time in mere

country sports as the season for hunting or shooting might afford the opportunity, but that he had read books of literary merit, among them some of the French comedies of the immortal French dramatist Molière. He had evidently advised Lady Doughty to read Molière's play of the *Misanthrope*, and he had sent her the book, no doubt with observations upon the two leading characters contained in the play, one of whom is the man of the world who looks upon everything from the pleasant side, who accepts the conventional views of social life—not as indicative of vice or folly, but as contributing to the cheerful enjoyment and happiness of mankind; while the other is the morose, rigid moralist, who looks at everything from the dark side, who can see nothing but folly and vice in mankind, and who thinks it meritorious to shun society rather than seek its enjoyments. Roger Tichborne professed to be of the latter rather than of the former character, affecting to take a gloomy view of life, and a desponding view of his own position. Lady Doughty expresses the brighter view: "I have just received *Le Misanthrope*, and for your sake shall study it, though I daresay I shall share the opinions of Philente more than *Alceste*, but we will discuss it some day, I hope, in the little smoke-dried room"—that is the room built for Roger at Tichborne, as Mr. Gosford told us, and where he smoked so much that she calls it a little smoke-dried room. I merely refer to this in passing to show you that Roger was not incapable of appreciating the literary merits of the charming writer by whom that work was composed.

He writes another letter to Mr. Vincent Gosford of that same period, namely, on August 24th, in which he adverts to the topic of the proposed settlement. He says, "I am studying as much as I can to be able to finish all what I have to do by the 1 of October, then I hope to be able to go and pass a week at Tichborne with my uncle and aunt before I go to Dublin where I hope to go about the middle of October. Mr. Hopkins wrote me few days ago to tell me that he wished me to write to him to tell what was my last determination about the Settlement, that he wanted my answer to give it to my father. I answered him that I was very soon of age and that I wanted that time to think more deeply upon it, to be able to think about it in such a manner that I may not repent latter in life"—he there uses two "t's" instead of one—"may not repent latter in life of having given my consent without having well thought about what I was about to do. He showed that letter to my father, as he had told me he wished to do, and he wrote me (and I received his letter yesterday) that my father was very glad to see that I studied the things so much and that he approved of my delay to be able to think more about it. I am very glad of it and I hope then to be quiet for the rest of the year,"—and so on. There is a letter shortly after-

wards which is of no importance except with a view to show that this young man had rational pursuits as well as the pursuit of amusement, and sport, and so forth. "I should be much obliged to you if you went to my smoking-room and took there a book which is called Lardner Steam Engine and send it me by Tom, with my ombrella" —writing, according to the French, "ombrella" instead of the English word; and then we have a misspelling which is worthy of the doubted Roger—"which is in one of my *draws*." We have very few instances of misspelling worse than that, I must confess. There is another letter from Lady Doughty from Edinburgh, which is only important in this way, it contains the name of Lady Neave, a name which was put to the defendant afterwards in cross-examination. She says, "I had intended a long letter but have received a shock to-day by seeing in the papers to-day the death of my poor step-Sister Lady Neave. She was my Father's Daughter by his *second* wife. She has left a very large Family and will be a great loss. She was brought up a protestant by her Mother. I shall of course be in mourning," and so forth. That is the only mention, I think, that occurs of Lady Neave's name which might have left the recollection of her name as being the half-sister of his aunt Lady Doughty; but, being mentioned only once, it might have passed away and have been entirely forgotten. I mention it, however, because it was one of the names put to the defendant as a test whether he was Roger or not. Then on the 7th of September Roger writes to Mr. Gosford: "Mr. Henry Seymour went away about ten days ago. Since that time I enjoy all the bauties"—the "e" of the word being left out—"of the life of a Misanthrope. I know nobody in London at present. It is by far the best plan for me at present to be a Misanthrope"—that is a shunner of the world and mankind—"because with my little taste for study, it makes me study from morning to night, if it is only to do something. I am getting on with my studies very well. I intend to pass a mathematical examination before I leave London, and to receive my certificates which will prove that I know as much mathematics as is required of me to know at present. It may be of little use to me at present, but it will be perhaps useful for my promotion." Then he talks about the tailor and accoutrements, and so forth. "I shall have a Te Deum sung when the first of October comes, and that I will have passed my examination, and I may leave London. I don't like London at all. I hope to be able to go to Tichborne for a week or so at the beginning of next month." Here we have a characteristic spelling again, not invariable but nearly so—he spells to "begin" and "beginning" with an "i" instead of an "e" in the first syllable, which is one of the peculiarities he never shook off to the end of his letter-writing. Then comes a letter from

Lady Doughty of a painful character, because it introduces Roger's mother again upon the scene as a mischief-maker—a woman whose querulous and quarrelsome disposition was constantly marring the peace of those with whom she came into contact. “Are you going to see your Father again? Do you know when he is going to return to France, or where he is? Of course you are aware that after all seemed happily settled between your Father and Uncle your Father wrote to say your mother was *not* satisfied, and he requested Sir Edward to write to *her*, & gave her direction in Paris. Your uncle wrote kindly but firmly to your Father to decline doing this; saying ‘that never having seen your mother for fifteen years, or ever written to her, he was convinced no good could result from his writing now.’ Since this your Father has not written again, so we know not where he is, or if he does intend coming to Tichborne or not. I did not name this before as we were in hopes it would pass—however, your uncle desires me now just to tell you the facts as they have happened.” At the end of her letter she says, “dear Roger, I want to offer one little bit of advice, and that is still to improve in letter writing, in style, spelling, &c. Now, don't be angry with me, or write less often, but as this is a talent that must be called forth in the army, it is so very necessary for you to know different styles of letter writing—so forgive me for venturing to advise you, and with kind love from your uncle and cousin Believe me always, y^r affectate Aunt.” Whether upon that Roger provided himself with that very useful work for indifferent scholars called ‘The Complete Letter Writer,’ I do not know, but I must say that, whatever faults and mistakes (and they are abundant) we find in point of spelling, he certainly does improve; he does not shake off the habit of using French idioms and forms of expression, but his style improves, and at all events becomes fluent and facile. His thoughts appear to come readily, and his language readily adapts itself to the thought that is present to his mind; and, as my learned brother Lush is good enough to remind me, and I am much obliged to him for the reminder, with one or two exceptions, which clearly never were intended to go beyond the person to whom the letters are addressed, his letters are always in good taste. They are always the letters of a man accustomed to educated and refined society. That is one of their characteristics which, I think, will hereafter prove of considerable importance in the issue you have to determine, and is a thing well worthy of your notice. On the 15th of September he writes to Mr. Henry Seymour, “My dear Henry Many thanks for your very kind letter which I had the pleasure of receiving yesterday. I should be much obliged to you if you had the kindness to let me know the day of your arrival in London that I may wait for you to go about to see horses. The reason which makes me ask the day of your arrival is this. I

received yesterday a letter from my father in which he expresses a wish that I should go and join him on the 29th of this month. I don't think that I shall be able to go out of London on that day because I have my examinations, and it is also on that day that Mr. Floun is to give me"—Mr. Floun being I suppose the professor with whom he was reading—"is to give me my certificates which I am so anxious to receive from him before I leave London. But on all cases I shall leave on the 31st or on the 1st of October the latest." To his aunt, who had inquired where his father was, he writes on the 18th: "My Father is at Knoyle at present. I received a letter from him last Saturday. He wishes me to join him on the 29th. I don't think that I shall be able to leave London on that day. But I hope to be able to go on the last day of the month or on the first the latest. My Father will go back to Paris on the 10th or 12th of October." He says, after other passages about music and things of that kind, "I intend to go to Dublin about the 20th October, I hope to have the pleasure of seeing you and my Uncle before I go to Ireland. I fancy that about that time you will be back to Tichborne. If you allowed me I should be most happy to pass few days at Tichborne before joining my Regiment. I don't suppose they will refuse me at present or even oblige me to undergo another examination as I will have my certificates which will prove that I have passed my examinations in London and that I know as much Mathematics as is required of me to know at present. What makes me say so is that my name is in the Army list since the first of July and I don't think under those circumstances they will refuse me at present." All this shows how the subject of mathematics was present to his mind.

Visit to
Knoyle.

I do not note that there is anything that calls for observation in the further correspondence going on at this time with Lady Doughty. She seems to have written to him not less than five or six times when at Edinburgh, from whence the family returned about the end of September. On the 11th of October we find him at Knoyle. He writes to Mr. Gosford, "My dear Sir, I left London on the second of this month to come and pass few days with my Father before he goes back to Paris. I shall leave Knoyle on Monday"—which he writes strangely enough with a "u"—"the 15th of this month as my Uncle and Lady Doughty have allowed me to pass few days at Tichborne before I go to Ireland. I intend going there on that day for a few days. I shall leave Salisbury for Winchester by the 1 o'clock train." Therefore he was to be at Tichborne on Monday the 15th, according to that letter to Mr. Gosford. We have here again an instance of the accuracy of Lady Radcliffe's diary, for in that diary it appears that he arrived on Monday, the 15th. During this visit to Knoyle a circumstance happened which requires to be

mentioned. Mr. Seymour, his mother's father, was at that time dying. He had been for some time ill with dropsy, and was then in the last stage of that complaint. He had gone to the house of Mrs. Hopkinson, his wife's mother, for the benefit of the superior medical advice which was to be had at Bath and which could not be had in his part of the country. In the meanwhile Mrs. Hopkinson had come to Knoyle and was staying there, and it so happened that Mr. Seymour, her son-in-law, died at her house at Bath, while she remained to die a very short time afterwards in his house at Knoyle. It is an unquestioned fact that Mr. Seymour died in her house at Bath, and I think there cannot be any doubt that Roger went over from Knoyle to Bath on purpose to take leave of his grandfather. Whether that last visit, as it proved to be, was intended to have about it all the solemnity of a final leave-taking so far as this world is concerned, or whether it was a leave-taking simply because Roger was going away to Ireland in the course of a week or two, and it was of course right and proper that he should go to Bath to see his grandfather before he went to Ireland, from which he would not return for a long time, I do not know: possibly the visit combined the two things. It may be that Roger did not go to take a final leave of his grandfather on this side of the grave; but the probability is that he perfectly well knew the state in which his grandfather was, and that though the visit might assume the form and character of a mere present leave-taking and not of a final one, still, practically speaking, he would see his grandfather no more in this world; Mr. Seymour was known to be dying. We are in the month of October and he died in November. Everybody knew that he was at the last gasp, and Roger Tichborne, I should imagine, could not have failed to be made acquainted with the state in which his grandfather was; and although he might say, "I am come over to see you before I go to Ireland," and said nothing about taking a final farewell, and although the old man may not have been aware how near he was to death, and may not have received his grandson as though it were for the last time, and given him his parting blessing before he lost sight of him for ever—I cannot help thinking that Roger must have known that in all human probability he would see his grandfather no more. Now comes a question which we must ask ourselves: if you go to see some relative who has been as kind as a father to you for years, and you know that he is rapidly approaching the final termination of this world's existence, and take his hand for the last time, and you know that the farewell that he utters will be the last that you will ever hear from his lips, and then within a very short time that loved person passes away from the world and you see him no more, is that a circumstance which would remain impressed indelibly on the memory, never to be forgotten, or is it a thing about which you may make a

mistake, and whereas you saw him at Bath, may confuse it in your mind and think you saw him at Knoyle, and whereas you saw him at Bath for the last time and knew he died there, could forget that and say afterwards, No, he did not die at Bath, he died at Knoyle. If asked, "Did you go and take leave of him there for the last time?" could you say, "Oh, dear no. I went to take leave of him, because I was going to Ireland. It did not make any impression on me. I did not know he was going to die." Is that what you think would result from a parting under such circumstances, a leave-taking, which although it might not have had the outward character of a final one, yet practically was known to be one which would never be repeated? That is a question which you will have to decide by-and-by when you have heard the defendant's account of how he went to see his grandfather and where he saw him. I call attention to it now as one of the events of Roger's life, because I think it is one of those things which ought fairly and justly to be taken into consideration in determining whether the recollections of the defendant are the recollections of Roger Tichborne, or the recollections of some one else. That is all it is necessary to say about it at present.

Life in Army
—Arrival in
Ireland.

Gentlemen, Roger returned from Knoyle to Tichborne, and passed a few days at the latter between the 15th of October and his final departure for Ireland, which took place, if I mistake not, somewhere about the 22nd or the 23rd of the month. He crossed the Channel and arrived at Kingstown on the 25th; on the 26th he proceeded from Queenstown to Dublin, and on the 27th he joined his regiment. On his arrival at Dublin he went to present himself to the colonel, who at that time was Colonel Jackson, and there, as you probably remember, a somewhat curious scene took place. We have Colonel Bickerstaffe's account of it. The latter as adjutant was transacting regimental business with the colonel, the young man presents himself to the colonel, who looks at him, and whether from his appearance, or dress, or what—Colonel Bickerstaffe says from the seedy appearance of his dress—the colonel takes him for a cook, come to assist the regimental cook at a dinner which the regiment was about to give, and he says, "Oh, send him to the cook;" but, possibly to the surprise of the colonel, Roger, instead of walking away, presents him with a formal document with the seal of the Horse Guards, which turns out to be an official notification that Roger was appointed to her Majesty's Regiment of Carabineers; whereupon the colonel desires the adjutant to hand him over to one of the young officers to be introduced, and he is handed over to Mr. Foster. Mr. Foster takes him about the town, introduces him to some of the tradesmen of the regiment whom they were in the habit of dealing with, amongst others to one essential to Roger, namely, the tobacconist, after which

he introduces him to his future brother officers; and on the next day, the 27th, Roger joins.

I should observe that before he left Tichborne he evidently had had a conversation with his aunt, Lady Doughty, on the subject which was nearest to his heart, namely, his relation to his cousin, Miss Doughty. He had renewed the conversation which he had had before with Lady Doughty, when she was passing through London, and I think it cannot be doubted that Roger Tichborne held a very desponding view of his capacity to please, of his own pretensions, of his own appearance and power to win his way in the world, and, above all, to win his way into the affections of a young lady. He appears to have spoken very despondingly indeed, on this subject, to his aunt. She writes, after receiving intimation of his arrival at Queenstown, "We were most agreeably surprised to hear of your safe arrival in Ireland so soon; I had not dared to hope we should have heard before Tuesday—I have thought of you incessantly since our sad parting on Tuesday night last—I earnestly hope change of *scene & active* employment will give you a more cheering view of life and draw you from your own melancholy thoughts—write speedily again—tell me how you have been received by your fellow Officers?" and so forth. Then comes a reference to "Emily Benett and Johnny"; and then she says, "I have remained with your uncle, as I found him low and nervous when I returned from town, tho' better to day, he has felt very much parting with your Father & you; & the continued painful accounts of dear Bob"—that was his uncle Robert—"make one expect every day's post will be *the fatal* account, he is worse and all expectation of removing him *gone*, for if raised in bed he faints—God only knows how long he will last, but truly do I hope *you* & I may be as well prepared when *our hour comes*. I rejoiced to find your Father had left the little pictures of yourself & Alfred with us—we have hung them under the family miniatures in the Drawing Room, so your portrait, my dear melancholy boy, I look at over that very stool where you have passed many an hour talking to me by the fireside in the Drawing Room." Then she says, "& now My dear Roger, Adieu—be assured that the confidence you have placed in *me* will be quite safe with me—that whatever may be your future destiny—I humbly pray the *Author* of our *Being* that He will guide you to love *Him* & be grateful for the *existence* given you here below to work out & gain happiness hereafter; & that as you do feel affection for a human being"—this having, evidently, a reference to the affection which was becoming the absorbing feeling of his life,—“as you do feel affection for a human being, let it stimulate your exertions to conquer your faults, & lead a life that could render those you love happy—remember if ever you wish to say anything in confidence to me, you have only to put Private at

the top of a separate sheet enclosed in your letter & I shall never show it, & be assured I am, Ever y^r affec^{ate} Aunt KATHARINE DOUGHTY." So far, you see, there was encouragement to maintain the affection which he had formed for the daughter. She does not say, "I must tell you fairly that the affection which you have formed for one human being is one that you must seek to get rid of as soon as possible;" but "let it continue to exist so as to be the means of working upon your mind to induce you to lead a good life and cure your faults so as to make the person you love happy; if you have anything to say on that subject write in perfect confidence to me and be perfectly assured that what you say will not be told to anybody else." That seems to me, I must say, to be giving encouragement to the affection which that passage refers to.

Then Roger writes to her—this is not one of his confidential letters, but is a letter upon common subjects, and I refer to it only because it shows that at that time, whatever he may have said in his idle talk about misanthropy and despondency of spirits, and disinclination to enter into the world, he was entering very cheerfully into Dublin society, and enjoying it very much: "I begin to know some persons in Dublin. I went last Friday evening to a small evening party at Lady Burk."—Let me call your attention here to another peculiarity of Roger's. I do this as I go along with the correspondence that I may not have to come back by-and-by to these letters to pick out the instances in which grammatical or orthographical peculiarities are to be found. Roger sometimes omits the final "s" in forming the plural, and he sometimes omits, but only under the peculiar circumstance I am about to point out to you, the final "s" of the possessive, or as they call it in the Latin grammar, the genitive, case. He ought to have said, "at Lady Burk's"—he leaves out the "s." This omission of the "s" in the genitive case is a characteristic peculiarity, as I shall have to point out hereafter, of the defendant, who does it in innumerable instances; but as far as my observation has gone, with hardly an exception, Roger Tielborne does not fall into that mistake except after the word "to" or "at"—"at Lady Burk." That is a literal translation of the French. *Chêz*, which is the "at" of the French, is not followed by the genitive case, marked by the preposition *de*. He would say "*Chêz* Lady Burk." In English we should say "at Lady Burk's," "house" being understood, and therefore should use the possessive or genitive case. There is this distinction between the letters of the two periods—in the letters of the undoubted Roger the "s" is omitted, but, generally speaking, only in the case to which I have called attention, while in the letters of the defendant, the "s" is omitted in innumerable instances under totally different circumstances, where an ordinary person, writing ordinary English, would undoubtedly apply the letter "s."—

“I went last Friday evening to a small evening party at Lady Burk; she invited me to join a party which she had made up to go to the theatre the next day.” Then he talks about the theatre, which I pass over. No, by-the-by, there is a mistake there of “opera” instead of “operas.” “I went. The piece which was given that evening was Ernani. The music was not very good, and I think that those kind of opera lose by being translated into English. I went the next day to dine with Lord Howth; his three daughters and his son, who is in the 7th Hussar”—there, by the way, is an “s” omitted, with reference to the plural—“were there; the party was rather large. I went on Monday to dine with Lady Clanricarde; the party was rather small.” The antithesis is neat. The smallness of the party at Lady Clanricarde’s refers to the time when Roger was made a fool of by a mischievous young gentleman, the then Lieutenant Foster, who, when Roger said he was going to dine at Lady Clanricarde’s, played off one of his practical jokes, and said, “My dear fellow, you will find all the great people there; the Duke of Cambridge will be there? you must go in full uniform;” and away he goes and puts on his full uniform—including brass helmet—and in all the full panoply of an officer in Her Majesty’s Carabineers, goes to dine with Lady Clanricarde; but she, being his near connection, the sister of his aunt by marriage, Lady Tichborne, the widow of Sir Henry, with a view to becoming familiarly and pleasantly acquainted with her, as it were, quasi nephew, had asked him to come when nobody was there; and he finds himself in the presence of Lady Clanricarde alone in this full uniform, which, of course, presented a ridiculous appearance. But the good-natured boy took it in his usual amiable way, and when he afterwards saw Major Foster, he said, “Why you tell me to go to Lady Clanricarde in my uniform? You make a fool of me.” That is a little incident, and has only this bearing: it would be something to make him remember the Countess of Clanricarde to the last hour of his life. He would remember what a fool he had been made of to go and dine *tête-à-tête* with the old lady in the full uniform of Her Majesty’s 6th Dragoon Guards. I don’t dwell longer upon that. There are other letters in which he speaks of the society he was going into in Dublin. We know that at this period his time was principally taken up with his drills; he says in one letter: “I am getting on very well with my drill. I have nearly finished my foot and carbine exercise. If I keep to my work I have for 9 months, but if I dont I may have for twelve or 18 months. It is what makes me work as hard as I can to get it over as soon as possible.” Then there is a passage upon which the learned counsel for the defendant observed that it justified him in not calling Sir Clifford Constable as a witness on the present occasion. When I turn back to the passage I am surprised at the construction which he

sought to put upon it, namely, that it presented to his mind the idea that in this language Roger Tichborne had intended to convey something offensive with reference to the lady whom Sir Clifford Constable married. Now, if I thought that that was the intention or the effect of the passage, most unquestionably I would not read it; Sir Clifford Constable is not before us, and if it had been anything relating to his domestic concerns which would give him a moment's pain or displeasure, it ought not to be brought forward in public on such an occasion as the present, because it would be wholly unnecessary for the present purpose, as indeed it would have been even if Sir Clifford Constable had been called before us. But to find in it something offensive, and to say that on that account the learned counsel anticipated, if Sir Clifford should be called, he would be insulted in cross-examination with reference to matters of purely domestic concern, is about one of the strangest things one has heard of in the course of this most extraordinary trial. "I received, a few days ago, a letter from my Father, in which he tells me a news which he tells me he can scarcely believe himself. It is that Talbot Constable is going to be married to a French girl, Mademoiselle de Grammont. I was very much surprised to receive such a news." That is to say, here is an Englishman going to be married to a French girl. I can put no other construction upon it. The name of de Grammont is one of the best known in French society; and I cannot imagine why marrying Mademoiselle de Grammont should be supposed in any way to reflect on Mr. Talbot Constable. The term "girl" is a term which in familiar language one uses without any idea that it is to have an offensive signification given to it. You say, "Who did So-and-so marry?" "He married a French girl" or "a German girl." Whom did Mons. So-and-so marry? He married an English girl, a Miss So-and-so. Is it to be said that the term "girl" is here to carry with it some other idea than that which would present itself to one's mind from its use in ordinary conversation? You may use it, I quite agree, in an offensive sense, but one cannot imagine that Mr. Tichborne would have written to his son about a marriage with anybody but a young lady of respectability, or that Roger would have written in that way to his aunt if he had intended to convey anything offensive by it. I can only say I think the excuse is a very poor one indeed for not calling a gentleman who certainly was at a very early period brought into contact with the defendant in the way of being godfather to his son, and whom one certainly did expect to see in the course of this trial as a witness to the fact of his having identified him. The correspondence goes on: Lady Doughty writes to him, and amongst other things says, "I was really distressed that you misunderstood my last letter, and imagined I was displeased with you, be assured that I never had

such an idea, you who ever treated me with real kindness and affection—I made an offer dictated more perhaps by affection than by prudence, and I had not the *least idea* of reproaching you in any way, so be perfectly satisfied and let us go on as happily as ever together.” That was about the confidential communication. Then she says, “Miss Hamilton”—that is the governess whom she had taken on Miss Doughty’s return from the Taunton convent—“Miss Hamilton is leaving us and I am occupied in engaging another who I hope may prove a more companionable person.” That was Miss Braine, whom you have had before you. I observe that in writing to Roger she speaks of Mr. Seymour in the same way that Roger does himself. She does not say “your uncle Seymour,” but “Mr. H. Seymour wrote himself yesterday to announce his father’s death to Sir Edward; we feel very sorry for his family and he was really a kind friend and always so much interested about you. Where will Mrs. Seymour live now?” He writes to her on the 7th, “My Dear Aunt, I had the pleasure of receiving your last very kind letter yesterday I was very happy to hear at the same time from Walter Strickland. I am sure it must have been a very pleasant thing for him to find letters from all his friends waiting for him at Valparaiso. I shall be very happy indeed to see him when he will come back to England next year and to hear from him the details of his travels.” Here occurs an instance of another peculiarity of Roger, which is essentially that of a Frenchman. He commonly uses the future tense where we use the present instead of the future. The French are more grammatically correct in that respect than we are. We say in English, using the present for the future, “When I get to London I will go and see So-and-so. When I receive a certain sum I will pay So-and-so.” In such instances we use the present for the future. In strict grammar we ought to say, “When I will,” or “when I shall get to London then I will go and see So-and-so;” or “when I shall receive a certain sum I will pay So-and-so,” inasmuch as we are speaking of a future event not yet happened. But an Englishman does not say so, but uses the present tense; the Frenchman is grammatically speaking much more correct. Roger Tichborne commonly uses the French form, that is the future instead of what the English idiom would admit of and requires, the present. It strikes upon one’s ear as something incorrect, but in truth it is only a French form, more correct than the ordinary English one, when he says, “I shall be very happy, indeed, to see him when he will come back to England next year, and to hear from him the details of his travels.” He goes on, “I went to dine last evening at Mr. Ball,” omitting the “s” of the genitive. “I found there a large party, and among other persons I met, I met Lord and Lady Bellew, and was introduced to them

and they were kind enough to invite me to go and see them any time I could get out of barracks for a day or two. They told me that Edward Bellew was not to come back to Ireland before April." Then he says, "I was very much surprised to receive a few days ago the visit of Gerald Dease, he came to see me at the barracks he only pass through Dublin on his way to one of his friends." Now, here there is another peculiarity which I beg to point out to you, and ask you to notice. Here we have the opposite of the correct instead of the incorrect grammar; we have a serious fault in grammar, the use of the present tense for the past; and it is one of the points of contact in which there is a resemblance in the grammar of the defendant, the disputed Roger, and that of the undisputed Roger, whose letters I am reading, that they both of them omit the "ed," which forms, according to the regular construction of the English grammar, the past tense of the verb; more especially you find it in the word "use" for "used." We "use" to do so-and-so. I "use" to do this, that, and the other. Both of them omit the final "d" which constitutes the preterite as distinguished from the present. Both use the present tense when they ought to use the past. "He came to see me at the barracks, he only pass through Dublin on his way to one of his friends." Then he gives a little description of himself: "You remember that when I was at Tichborne I use to wear a little bit of beard on the chin, well one of the first thing"—here again the "s" is omitted where it ought to be added to form the plural, but it is not in this respect but in its use in the possessive case that the distinction is more marked between the two sets of letters—"one of the first thing I had to do was to shave it off to my great despair, as also to have my hair cut in the regimental fashion; there is also another thing everybody is telling me that I am coming"—here, there is another characteristic of Roger which hardly ever fails; where he means to say becoming, he makes a blunder between becoming and coming, between the verb to come and the verb to become, and uses the shorter word—"that I am coming so very fat in the face, all those things together make me quite another person. I am afraid my Dear Aunt that I have abused of your patience in writing such a long letter. Pray let me soon hear from you. Pray give my love to my uncle and to my cousin and I remain My Dear Aunt." Here we have another French expression—"I have abused *of* your patience in writing so long a letter."

Next comes a letter of business, a letter to Mr. Gosford, a passage in the course of which shows that Roger was always alive to what in common parlance is called the main chance. He understood his own interest perfectly, and was by no means indifferent to pecuniary considerations. "I am sorry that you have mentioned my intention

of going to England, towards the end of this month or at the beginning of next, to Lady Doughty. I did not wish her to know it as yet. I intended to let her know my intention after I had asked leave, and a few days before I left Dublin. I was sorry that Mr. Hopkins learned it so soon, because I shall have no end of business to transact with him, and I must say I have not much time to spare in that way. I received a letter from him this morning, at the same time as yours. He mentions to me that he has received those papers back again." These were some papers which were supposed to be lost, and which were afterwards found. They are not material to the present purpose; we have had no evidence on the subject. "I was glad to learn that he had them back again, because they may be very useful to me if I succeed to go to London"—instead of "if I succeed in going." "He offers himself to give me all the informations;" that he uses in the plural, instead of the singular, which is French—*les informations*—they do not use the word in the singular—"to give me all the informations in his power, and he sais"—here we have Roger writing a word in a singular manner, and which he writes so whenever it occurs: he fancies that the second person singular of the present tense of the verb "to say" is written in the same way as the third person of the past tense is written, only with a difference of an "s," instead of a "d;" he invariably writes the word "says" "sais"—"and he sais that if I am not able to go to London, he will come over to Dublin. I have not time to answer his letter to-day, but I hope to be able to write to him to-morrow. You have forgotten to give me in your letter my Uncle's banker, because it may be useful for me to know it later. What preoccupies"—that is a French expression altogether, and he spells it wrong by leaving out one of the "c's"—"What preoccupies much my mind at present is to know how I am to get some money to keep me on during next year, without getting too much into debt."—He seems to have had a very salutary horror of debt.—"I have been thinking for a long time that my Uncle having consented to give me an allowance of 500*l.* a year on condition that I should agree to the different settlements which are to be made up by the time that I shall come of age, and to which I am *supposed* to agree, but at the same time he said that he could not make me that allowance except if he was allowed to raise 10,000*l.* on the property, I was thinking that I should not have any objections to his raising that sum of money if he gave me 500*l.* a year; the only thing which remains to know to settle that point of the business is to have my father's consent, and I fear it will be difficult to get his agreement to these arrangements. If it could be settled in that way it would be a great thing for me, as it would prevent me from getting into debts." There he uses the plural instead of the singular, but this is a Gallicism, and one does not speak

of getting into debt in France, but of contracting debts. "The objection which I gave you in my last letter to go to Tichborne at present, if I can get leave, is that by refusing to agree to those settlements"—he was determined to exercise his own judgment, and carry out his own purpose,—“that by refusing to agree to those settlements, my uncle might get vexed against me, and get me into trouble, thing which I wish to avoid as much as possible”—we should have said “*a* thing,” but a Frenchman says “*chose*” without the article before it—“thing which I wish to avoid as much as possible, and if it was to happen would pain me very much, and I think that by keeping away I may perhaps avoid it in a great measure. I wish you give me your opinion on that subject in your first letter. I should be very much obliged to you if you had the kindness to answer my letter as soon as possible, and give me as much information as you can about what is going on at Tichborne, and if you had any privat”—which is written without the final “*e*”—“conversation with Lady Doughty about that subject, and how she likes my coming of age. I suppose that you have many conversations with her on that point, as on many others.”

He next writes to his mother, and talks about his drill; and from what he says about his drill, it must, I think, be inferred that this young man was very desirous of becoming a soldier, and was doing his best, though he may not have succeeded, to make himself an efficient officer: “I am getting on very well with my Colonel, the superior officers and my brother officers. I am getting on very well with my different drills; I have nearly finished my foot drill. They don't begin to show the Cavalry drill to a young man till he is pretty well advanced in all the different infantry exercises. I am obliged to know all the foot drill as well as an Infantry officer. As I know that part pretty well I have begun the different cavalry exercises. I have two hours riding every morning, one hour in the riding school and one hour out of the school in the Barrack yard. They teach me there all the different cavalry evolutions, which are all the movements which I am obliged to perform in a review or on marching order. During the afternoon I have an hour and a half of foot drill and sword exercise. There is one marching order every week which I must attend; on those days I have no drill. It is very pretty to see a cavalry marching order. The whole Regiment comes in the barrack yard at a given hour in full dress and mounted. The Colonel inspects all the soldiers and officers to see that their”—here we have another peculiarity of Roger Tichborne; the word “clothes,” which occurs again and again, is always written “cloths,” which I do not think we find in the letters of the defendant—“to see that their cloths are well brushed, and that the horses are well cleaned. After the inspection is over he has the Regiment to perform several cavalry

evolutions for an hour, after which the whole Regiment goes out of Barracks in marching order for about two hours. I am very fond of my new profession, and I have no doubt that the more I shall go on with it—the future instead of the present—“the more I shall like it. Dublin are very good quarters,”—there is some mistake of composition here; “quarters,” I suppose, should come in. Then it would read “Dublin quarters are very good quarters,” instead of which it stands—“Dublin are very good quarters, the officers are much thought of; it makes it very pleasant for the officers. I know for my part some persons in Dublin, it makes it very pleasant for me to be able to go and see some persons in town. I must conclude my letter, my dear mother, by wishing you, as also to my Father and brother, a happy new year, which I hope you will pass in good health and happy, and which I hope with all my heart will be followed by a great many others. I remain, My Dear Mother, till I have the pleasure of hearing from you Your very affectionate Son, R. C. TIEHBORNE.” Gentlemen, I have read that letter for the purpose of showing with how much good will and what desire to make himself an efficient soldier this young man was entering on his drills and his military duties; but I think the letter is not unworthy of observation in another view. This was a young man who in 1845 came to England unable to write either French or English. I have read that letter to you. There are Gallicisms in it; there are one or two mistakes in it; but form your own judgment whether it is not the language, the tone, the style, of a fairly educated young man, a letter such as—making due allowance, as I said before, for the foreign character which remains more or less stamped on it—would not be a disgrace to a young officer in any of Her Majesty’s regiments to write, and which you would not be shocked at receiving from any relation of your own whom you knew to be an educated man. In that point of view the letter is deserving of attention. It is the last letter of the year 1849. He obtained leave of absence with a view to his coming of age, which would take place on the 5th of January following. And on the 2nd of January, this letter having been written on the last days of December—on the 2nd of January, 1850, the year we are entering upon, Roger Tiehborne went to Tiehborne on leave of absence for, I think, a fortnight, or some such period. Then it was that the matter of the settlement was renewed.

On this occasion of his coming of age, there was, of course, more or less of festivity, and amongst other things, a ball was given—a servants’ ball—to which the tenantry were invited, and to which many of them came. That took place, I think, on his birthday, the 5th of January, or thereabouts. At this ball Roger unfortunately—I do not know that it was at all surprising—took a little too much

of the punch which was circulating, and out of that grew the incident which Miss Braine has deposed to, and on which I shall not make any further observation till I come to deal with the evidence relating to the identity of the defendant, whose observation in respect of what happened on that occasion between him and herself is referred to for the purpose of showing that he must be Roger Tichborne. I think there can be no doubt that Roger did indulge a little too freely on that occasion; and the fact, perhaps, found its way to Lady Doughty's knowledge, and strengthened her apprehension of Roger giving way in after-life to a propensity to drink too much.

Upon the occasion of this visit, the subject of the resettlement of the Doughty estates again came up, and Mr. Hopkins found the same disinclination on the part of Roger to concur in the scheme which had for its leading element the sale of the Dorsetshire property, and there are some letters which passed between them, which show that Roger was quite alive to the importance of his being made thoroughly acquainted with the details of any proposed scheme, and that he was quite determined to exercise his own judgment on the matter. Mr. Hopkins having proposed a modification of the first scheme, Roger writes: "I am very sorry that I am not able to have the pleasure of seeing you to day. I have formed some engagements which prevent me from going to Alresford to day; but I hope that I shall be at liberty on Tuesday. I should be very much obliged to you if you had the kindness to give that last scheme to my servant, that I may read it before I see you next." He writes again to him on the 6th of January: "I am sorry that many engagements have yesterday prevented me from giving as full a consideration to the different papers which you gave me as I could have wished. I do not therefore think it wright"—right being written with a "w"—"to take up your time to-day but will to-morrow give in writing my views in writing upon the subject; in the meantime I will only say that I approve of the scheme as a whole but subject to some alterations which I will point out. If you are leaving home pray be so kind as to leave me your address that I may write to you." You see he there speaks of a further and second scheme which Mr. Hopkins had submitted to him. Now, as I have told you, the main part of the purpose which they had in disentailing the Doughty estate was, by the sale of one portion of it and by raising money on another portion, to obtain a sufficient sum to pay off the incumbrance which existed on the Tichborne estate, and, besides that, to purchase other lands in that part of the county of Hampshire, so as to aggrandize the Tichborne estates and increase the consideration and influence of the family in the county. Hampshire was the county to which they attached a value which they did not attach to other parts of England in which the Doughty property was. When Roger refused to allow

the Dorsetshire property to be sold, it was necessary to introduce a modification of the original scheme, and what was proposed to him was this—"You will not consent to the sale of Upton or of the Dorsetshire property, you will not consent to any present dismemberment of the estate. We therefore propose to you to let us raise on the Doughty estates—without dismembering the estate and without selling the Dorsetshire or other property—a sufficient sum to pay off the incumbrances on Tichborne and to increase the Tichborne estates by the purchase of land in the neighbourhood." Into this scheme Roger eventually entered, and became an assenting party to the settlement, because it still left it open to him to deal with the property as he had conceived in his mind the intention to deal with it. Accordingly this was carried into effect, though not at the moment, as it took time to elaborate the scheme and to prepare the deeds necessary to carry it into execution.

When the scheme was finally completed it stood thus:—There was on the Doughty estate an encumbrance by way of jointure to Lady Doughty, which had been created under the power of Miss Doughty's will, the estate being charged with two sums, making in the whole 2,500*l.* a year by way of jointure to Lady Doughty. There was besides that, as I have told you, the sum of 8,000*l.* charged upon the estate for the benefit of Miss Doughty. Of course the jointure to Lady Doughty would expire with her life. The dowry of 8,000*l.* must be raised upon the estate. There were also some small annuities of 500*l.* or 600*l.* under Miss Doughty's will, which of course would die out with the annuitants. In addition to Miss Doughty's property at large, which consisted of estates in Lincolnshire, Buckinghamshire, Middlesex, London, and Surrey, there was this Dorsetshire property, the Upton estate, and the lands which had been purchased by the trustees of Miss Doughty's will out of the personalty she left behind; and there was also a further estate in the immediate vicinity which Sir Edward Doughty had bought for 13,700*l.*, but the purchase-money of which had not been paid, but had been left on mortgage. Subject to those charges, the estate might, as I have told you, be disentailed and resettled as the parties thought proper, and they proposed to settle it in this way. They proposed to give Sir Edward Doughty an estate for life; at his death to give Mr. James Tichborne, Roger's father, also an estate for life; and on the expiration of these two life estates the whole was to go to Roger, not as an estate in tail, but in fee simple, so that Roger could do with it what he liked. In the meantime, Roger was to have an income of 500*l.* a year charged on the property while his uncle lived, and at his uncle's death that 500*l.* was to be doubled, so that he would then have an independent income of 1,000*l.* a year charged upon the property. Now this his absolute uncontrolled right, with which

no one could interfere, must be borne in mind by-and-by when we come to the period when Roger is supposed to have accepted the employment of a herdsman at 30s. a week—there being secured to him by the settlement 500*l.* a year independently of all control while his uncle lived, and 1,000*l.* a year after his uncle's death. There is one thing I have omitted, and it is this, that Sir Edward insisted, as a condition of Roger being in the meanwhile to have an income of 500*l.* a year, secured on the estate, and 1,000*l.* a year after Sir Edward's death, on his being entitled to charge the estate with 10,000*l.* to be raised upon it at his death, and which was to go to his executors, to be disposed of in such manner as he should direct by his will. But the all important part of the scheme had reference to the sum which was to be raised for the benefit of Tichborne. It was agreed that a term of eight hundred years should be created in trust to raise a sum of 100,000*l.*, which was to be applied in paying off the incumbrance on Tichborne, amounting, as I have explained, to 56,000*l.* as regards the old estates of Tichborne, and of a sum of 4,374*l.* more as regards the two smaller properties which had been recently purchased. The purpose of the 100,000*l.* which was to be raised on the Doughty property was to pay off these encumbrances on Tichborne, amounting to upwards of 60,000*l.*, and the residue was to go to purchase lands to increase the Tichborne estate. To this Roger agreed, and so this settlement was executed. And you will observe that inasmuch as the ultimate remainder to him was a reversionary interest in fee simple in the estate, he was enabled to dispose of the reversion, but subject always to the prior estates of his uncle and his father; so that whatever disposition he might make of the reversionary estate, not a stick or a stone of it could be touched so long as the two prior estates for life continued in existence. It is necessary to bear that carefully in mind, when we come by-and-by to see what was the view taken, at a later period, by the defendant, of what Roger had done, what his powers were, and how he had carried those powers into effect by his will. He had, as I have explained to you in the simplest terms I can use, full and absolute power to deal with the Doughty estate in futuro by deed or by will; but whatever he did, whatever disposition he made could not take effect, or come into operation in presenti, but only in futuro; before any such disposition could be carried into effect it would have to wait till the two lives had dropped which intervened between the present estates and Roger's future interest. You will see the importance of this by-and-by when we come to deal with Roger's will, and with the statements of the defendant as to the dispositions made by Roger of his reversion under that settlement.

marked private. "My dear Aunt, I was very anxious to have before I left Tichborne a private conversation with you; but I saw with much sorrow when I had the pleasure of seeing you last that it would have fatigued you too much to have begun that conversation. It is for those reasons that I have taken the liberty of writing to you upon the different subjects which I was anxious to tell you by words of mouth if I had been able to do so before I left. You mentioned to me once in the drawing-room that my conduct toward you since I was at Tichborne had been very reserved. I don't think the accusation quite correct. Have I made any prove of reserve?"—I pause here for a moment, that I may not have to come back again to these letters, to point out another of Roger's peculiarities of writing, which is to confound the verb with the substantive in numerous instances, especially in words which end in "ve," as believe, relieve, prove, reprove. When he wants to write the substantive he uses the verb and says prove, reprove, relieve, believe, and *vice versâ*; where he ought to use the verb, he uses the substantive, as "I belief," and so on, a confusion not surprising in a man brought up as a foreigner and who had not learnt English till late. Still it is necessary that one should take it into account; for when one puts on one side of the account the mistakes and blunders of the defendant in writing, it is only fair and reasonable that the same thing should be done in going through the letters of Roger Tichborne—making, however, this distinction, which I think is a very reasonable one, that where you find the inaccuracy is simply one arising from his foreign education, and not one which an uneducated Englishman would be likely to make, one must make allowance for that. He goes on, "Have I made any prove of reserve when I last had the pleasure of meeting you in London. I don't think I have."—Of course he was referring to what he told her on the subject of his inclination for his cousin.—"On the contrary, if I could reproch"—here is another of his habitual misspellings, he leaves out the "a" in "reproach"—"if I could reproch myself of something"—we should say "with anything" a Frenchman says "of something"—"it would be of having open my heart"—there is an instance of a word without the "ed" necessary to form the preterite—"too much and to have by those means laid," used for let, "you too much into my feelings and the nature of my thoughts. But I don't repent of it. There is also another accusation which can be put against me, which is that during the time which I passed at Tichborne I took perhaps too much to drinking. I quite agree that perhaps I have drunk sometime too much. The reasons which I can give to excuse myself for having donne so"—he writes the word done on several occasions with two "n's"—"the reasons which I can give to excuse myself for having donne so are these. I had my mind raised to a feverish state by the lawyers"—poor lawyers! they are

always blamed for something or other—"with whom I was obliged to discuss about those settlements; that joined with other thoughts which occupied my mind to the state I have just mentioned it made me take to drinking as a kind of relieve"—instead of relief—"You will perhaps say that it is a very absurd kind of remedy!"—"Absurd" written with final "ed."—"I agree. I remember that one evening in the drawing-room you were going to say something to me when somebody came in and prevented you from speaking to me. I should be much obliged to you if you had the kindness to let me know what it was. Now I am going to let you know a piece of news which will, I am sure, surprise you more than anything I ever told you as yet. I intend going to confession and communion as soon as I shall be able. That will be the beginning of the reformation which I intend to begin in my way of living, and which I hope with the help of God to carry into execution and keep to it in future times. I never had, as you know, much religion, but whatever little I had I always stood by it. I know very well that I have been more of a shame to my religion than anything else for twenty-one years"—The poor fellow was only just at that moment twenty-one years of age, so it was rather hard to bring in the years of childhood and infancy to his own discredit—"But whatever little religion I ever had I cannot accuse myself of having ever denied what I believed when called forth to confess what was my religion, and what I believed. I was fully determined of telling all these things which I have said in my letter if I had been able to talk to you before I left Tichborne. If there are some points which you don't well understand pray write me, that I may explain the meaning of each word that you may understand everything which I have said thoroughly well." Now what was it that had wrought this striking change of mind in Roger that, saying he knew he had been more a shame to his religion for twenty-one years than anything else, he had now made up his mind to turn over a new leaf and become a religious, devout man? I cannot help thinking that the love he had begun to feel for his cousin had something to do with it. There is, you know, a purifying and ennobling influence wrought by that master passion, which often has a very salutary influence on a man's mind and conduct; besides which this young man may have felt that unless he did lead a life which would inspire his cousin's parents with confidence in him as regarded his future conduct, and satisfy them of the likelihood of his making their daughter happy, his hopes in that quarter might be disappointed. At all events, the first step towards a happy domestic life was to get rid of evil habits, above all to abstain from any indulgence in future in that propensity which he knew his aunt had already observed, and in the conversations they had had together had no doubt pointed out to him as likely to be an insurmountable obstacle to the hopes he had begun to entertain. He says,

“my spirits have been very low since I have left Tichborne”—one can quite understand it—“I don’t feel so much the pain at the moment of parting with those who I love and who have been kind to me. But it is when I find myself alone that the reaction is very great with me because I cannot cry.” A mawkish bit of sentimentality if you like—a man not being able to cry, which is more the language of a young woman than a young man. At the same time one cannot help seeing that there were very strong emotions at work in that young man’s mind; one cannot entertain much doubt as to what the nature of those emotions was; and when we are told that Roger’s feelings towards his cousin were nothing more than mere animal desire, I must say I think that he who said so cannot have studied these letters, and cannot have followed Roger through all the strong and passionate emotions which these letters display—cannot have read these letters in the spirit of truth, or he never would have taken so ungenerous a view of Roger’s sentiments towards his cousin.

I pass from a letter of sentiment to one of business. I find Roger writing on the 20th of January to Mr. Gosford about the settlement; and the letter is by no means unimportant, because it shows that Roger knew that a man before he executes settlements that are to operate in future time, ought not to see with the eyes of his lawyer only, but should see for himself and form his own judgment as to what it is proper for him to do. “I received your very kind letter this morning. I was very much surprised at some of the details which you give me in it. I cannot understand that my father and uncle leave all those business of settlement so much in Mr. Hopkins hands without trying to get some information to be able to form a judgment for themselves; Mr. Hopkins seems to carry on the business to such a point that when he will think proper to consult with Mr. Slaughter the business will have been carried on so far as to make the different changes, if some are to be made, very difficult and expensive. I received a letter from Mr. Hopkins at the same time as yours. He mentions nothing except what you told me in yours about the furniture of the house. He does not tell me anything about what my Father said about my decision about Upton. As soon as those matters will be farther advanced I shall write to Mr. Slaughter to begin to settle my private affairs with him, which will I have no doubt take some time to settle (you know what it is, I told you what it was before I left Tichborne).” The “t” in “left” is omitted, but the language is not the less significant. It shows that at this very time when the settlement was about to be executed, Roger had conceived the idea of the will, which he intended to engraft upon that settlement in order to carry out the scheme which he had in his mind from the beginning. He says, “I don’t suppose that Lady Doughty has the least notion of it, as all the rest of the family, I suppose that

she would be delighted to know it. I should be much obliged if you had the kindness to write to me regularly what is going on at Tichborne." Then comes a letter from Lady Doughty. I read these letters, because they develope before one vividly the relations between her and Roger, and are essential to the thorough understanding of the character of Roger. But that is not all. You will have by-and-by to form your judgment when you have heard this correspondence—at all events that part of it which touches the soul and heart of Roger, as it were, to the very quick—whether it is a correspondence which any man could ever forget. Upon that you must exercise your own unbiassed judgment: for it is a remarkable fact in the case that in the mind of the defendant all this correspondence relating to the habits, the religion, the morals of Roger Tichborne, his present prospects, his future interest, above all to that big passion with which his heart was alive—a correspondence extending, I think, over some hundred letters—is an absolute and entire blank. You will have to form, as I said before, your own judgment as to whether such a correspondence could ever be effaced from the memory of a living man; and in order to judge of it, it is necessary you should have that correspondence well impressed upon your recollection before you retire to decide upon this question, and deliver your final judgment. Lady Doughty writes: "After three weeks being between life and death"—she had been most dangerously ill—"it has pleased God to restore me so far, that I have this day for the first time been in the Wheel Chair to the Drawing Room and I hasten to begin my thanks to you for your letters, especially that *private* one, tho' it may yet be some days before I finish all I wish to say to you, for I am very weak & my eyes scarcely allow of reading and writing." Then she goes on, "In the midst of my worst sufferings I had the consolation of receiving your letter my beloved Roger. I blessed God for it & prayed that you might have courage to persevere & carry out your resolution of going to the Sacraments; most earnestly do I hope you have found time to do so well & thoroughly & derived consolation from these great Sacraments of our Holy Religion. You request me to answer 'each word of your letter' I will do so in the order you have named for I was truly sorry to have been too ill to speak when I saw your kind face by my bedside. In the first place I did not intend to reproach you with circumstances which caused a reserve during your last visit between us, they arose naturally from your resolution not to speak upon the discussion going on with regard to the future settlement of the property, & my mind being full of the thought, I felt it difficult when we were together, not in some manner to allude to one subject which clearly harrassed your mind & yet I had no wish to force your confidence, so this unavoidably threw reserve between us when we were

alone, & I grieved to see that instead of finding relief from the worries of Lawyers by conversing with a friend deeply interested with & for you you rather sought relief in that fatal pernicious relief *the dreadful stimulant* of drink. Remember dear Roger that by that *conversation in Town* you gave me every right to be deeply interested in you fate, & therefore doubly do I feel grieved when I see you abusing that noblest of God's gifts to man reason by diminishing its power. Do not deceive yourself, you think it has not permanent effect upon you now, but sooner or later it must tell on the mind or health, but it is the far higher consideration, the offence against God which should prevent one's yielding to a vice which is after all degrading to a reflecting mind & I rejoice to find you condemning this bad practice. I cannot recall to my mind the subject you say I was beginning in the drawing room when interrupted; probably it might have had reference to the confidence which you say you do *not* repent having placed in me"—that was the confidence about his affection for her daughter—"No dear Roger never repent it, be fully assured that I never shall betray that confidence, you are young & intercourse with life & the Society you must mix with might very possibly change your feelings towards one now dear to you, or rather settle them into the affection of a brother towards a sister, but whatever may be the case hereafter my line of duty is marked out & ought steadily to be followed, that is, not to encourage anything, that could fetter the future choice of either party before they have fully seen others & mixed in the world, & with all the fond care of a mother, endeavour while she is yet so young, to prevent her heart & mind from being occupied by ideas not suited to what should be her present occupations; and hereafter with the blessing of God guard her against the dangers she may be liable to be ensnared into, by the position in which she is placed. Do not think I have said too much, you always beg me to speak openly & sincerely to you. I do not object to affect^{ed} cousinly influence which only tends to good & I feel our conversation on that night in Town authorises, indeed, obliges me to write as I had not the opportunity of speaking to you—You have been I rejoice to hear raised in the opinion of all with whom you have lately had to transact business with by your firmness and decision"—This is the man who is described to you as a man of no mind, of no capacity to understand business, and as an object of supreme contempt to every intelligent person with whom he might have come in contact. Is that the impression which is produced on the minds of lawyers and laymen with whom he is brought into frequent intercourse on the intricate and difficult matters of the settlement of a family estate?—"You have been I rejoice to hear raised in the opinion of all with whom you have lately had to transact business by your firmness and

decision. You are in an honorable profession which gives you occupation & if you will only pursue your present good resolution & let the high motives of doing our duty in life and resisting the bad passion to which each one is inclined, from a desire to serve God and save one's soul, I feel that ardent hope that you, whom it pleased Providence to place in that situation in our family my angel child was removed from, that you will yet fill it as I had fondly hoped to have seen him do, with credit to yourself, & by your charities and good example be a blessing to all who may hereafter belong to, or be dependent on you; but for this you must turn your heart to God, resist drink or a rash throwing away life, or wasting in any way the energies of a naturally strong sensible mind and really attached heart." Now that this lady was writing in all the sincerity of a woman's warm affection towards her nephew I think it is impossible for any one who reads this letter to doubt; and when, with her opportunities of observing him and judging of him, she speaks of him as a man who has a naturally strong sensible mind and really attached heart, are we to believe that that was the true character of the man or the hypocritical flattery of one who was addressing him in the language of adulation instead of that of sincerity and truth? I cannot believe that the latter was not the real meaning of Lady Doughty in addressing this language to her nephew Roger. "Now write to me soon, tell me *truly* if I have tried your patience by this long letter which I venture to send; for it is when returning to life, as I now feel, that renewed love for all dear to one seems to take possession of our hearts; so you must forgive it if you find it long.—Your uncle and Cousin send you their kindest love—We are now quite alone with the exception of Mr. Brindle—I cannot help telling you that I heard with satisfaction your decision about Upton tho' I *tried* to think it might be best to sell it—I really love that place where I had spent the happiest days of my life too well not to rejoice that it remains in the family—I hope you have been to the Castle & joining a little in the gaieties of Dublin. Poor old Mrs. Hopkinson's death will be much felt I should think by the Seymours—Adieu dearest Roger—Ever be assured of the sincere affection & real attachment of your Aunt KATHERINE DOUGHTY."

Property.

Gentlemen, the next letter to which I would call your attention is one on the subject of the property. I read it now for the purpose for which I have read other letters upon the same subject. It is dated February 1st, and written to Mr. Hopkins. "I must apologize for not answering your last three letters sooner. I have been so very busy since I came back from leave, that I have had scarcely any time to myself. I was very happy to learn by your last letter that Sir Edward had agreed to the proposal made to him by my

Father. It was very desirable that the plates pictures and other articles should be settled on Sir Edward's successors—it is not so much for the furniture by itself that that arrangement was so very desirable as for several things which have belonged to the family for many generations—as for instance the family picture—and which things would not be of such value to other persons as they are to the family to which they belong at present—You have not mentioned in any of your letters what my father said when he heard of my objection to sell Upton. I should like very much to know what he said about it. There is one point in your second letter which I dont fully understand: it is, in case of my death before Sir Edward or my Father, the sum of 400*l.* is to be given to my father. I dont quite understand if that sum of money is to be the same as I am to receive during my lifetime which is to be continued to my Father after my death. I should be much obliged to you if you had the kindness to explain that point to me in your first letter. There is also another matter I dont fully understand: it is, I dont see what difficulties they would be—it is another of his peculiar modes of writing that he sometimes uses the word “they” for “there”—it should be, “I do not see what difficulties there would be;” instead of which he writes, “they would be”—“to raise 2,000*l.* for my next step. I fancy that it could be raised on the property; then in case of my death my brother would pay it when he would come into possession. The last question which you mentioned in your second Letter appears to me quite fair: it is that in case I should marry so much a year ought to be left (in case of my death before Sir Edwd. & my father) for the support of the children if I had any, as also for the support of the mother”—This is the man who is supposed a very short time after this to be writing on the subject of his incapacity for the matrimonial state; yet you find him saying, and saying very properly, as a matter of business—“In case I should marry, so much a year ought to be left (in case of my death before Sir Edwd. and my father) for the support of children if I had any as also for the support of the mother.” Then he says, “I am very glad that you have begun to discuss those matters with Mr. Slaughter and my Uncle. I have no doubt that my Father will agree to those settlements when he will have discussed them with you. I should be much obliged to you if you had the kindness to let me hear from you soon and send me at the same time a Copy of the new Scheme. I want to see to the matter before I give my final sanction.” He was evidently determined to master and understand the scheme before he gave effect to it.

He writes again to Mr. Hopkins on the 21st of the same month: “I received your last letter with the new scheme few days ago, I was very happy to learn by it that the different conversations which you

had with my Father passed in such a satisfactory manner especially about what concerned Upton, I was very much afraid knowing what he had said to me on some previous occasions that he would have risen"—that is a mistake, it should have been "raised;" it is a mistake people sometimes make in using the neuter verb for the active one—"he would have risen some difficulties which would have been very difficult to overcome. I have read the new scheme which you were so kind as to send me with much attention, I think that the arrangement which has been made concerning the plates, linnen"—spelt with two n's—"glasses and other articles which do not in reality belong to the Family, but have been bought by Sir Edward since he came into possession, quite fair. I think that it would have been wrong to deprive him of things which may be, it is true, a lose"—"loss" written "lose"—"to the Family but are in reality his and not of such value as other articles which have been in the Family for so many years. I think the Clause 7 quite fair because I shall be in want of money to purchase my Lieutenancy; it would be impossible for me to raise the money without giving some proper security for it. I rather object to Clause 8. I think the sum of 500*l.* for the support of issue, in case that I should die during the lifetime of my Father or Uncle, rather small, I think that it could be raised to a larger sum. I think the new scheme fair, but I should be much obliged to you if you had the kindness to send me the Epitome as soon as it will be finished"—"the epitome of the scheme": he wants to have something which, without the necessity of wading through all the details a lawyer would set out, which would enable him more quickly to master and understand the whole thing—"I am at present much in want of money. I have not heard from Mr. Henry Seymour for a very long time. I dont know where he is, otherwise I should have written to him to ask him to place at my account some of the 2,000*l.* which remains from the money which has been taken from my Mothers fortune. I should feel much obliged to you if you had the kindness to write to him and mention that I am much in want of money."

Then on the 3rd of March he writes to his aunt, "My Dear Aunt I had the pleasure of receiving both your letters some time ago I was very happy to learn by your last that you were so much better as to be able to go out in the carriage. I have no doubt that the open air and exercise will do you much good I was sorry to learn at the same time of the death of Mrs. Hopkinson"—the name of Mrs. Hopkinson arises in the cross-examination hereafter, therefore I call your attention to the fact that Roger Tichborne was aware of her death, and refers to it—"I was sorry to learn at the same time the death of Mrs. Hopkinson. It will be I am sure much felt by the Seymour family especially after Mr. Seymour's recent death. I heard from

Henry Seymour a short time ago but he does not make any mention of it in his letter." He next talks about the Dublin garrison, writing garrison with one "r," and then he says, "We are to go to Cahir, our head quarters are to be there, two troops are to go to Limerick and one troop somewhere in the country. We are to remain in those quarters according to the new regulation two years, which is not a pleasant prospect. Dublin is very gay at present, the second Drawing room took place last Thursday I went to it."—showing that he went to a second Drawing Room—"It was not so crowded as the first but still it was difficult to move from one end of the room to the other. The theatrical"—in the singular instead of "theatricals" in the plural—"given by the Officers in Dublin took place on Wednesday last I went to it but I was not so much pleased with them as the first time. On Friday I went to a Subscription Ball, it was a good one but very crowded and very hot. I went there at about half passed 11, all the windows were shut and a large blazing fire was burning at one end of the room. They were about"—the same mistake as before, "they" for "there"—"they were about 700 persons in the room. The room was so very hot especially for the Officers who were all obliged to go in uniform that it was almost impossible to dance. I am very busy at present with all my different drills I have began the lance exercise it is a very pretty exercise and not difficult. We had some time ago very pretty drill. They made use"—it should be "us," but it is written "use," probably, a mere mistake of the pen—"they made use go in a large field up to the number of about 20, all recruits, myself and two other young Officers We were put in three lines When we were all placed they made us performed"—the past for the infinitive—"the sword exercise at full gallop, it must have been a pretty sight to look at. I have not heard from my Father for a long time." And so on.

Then comes a letter to Gosford again on the subject of property, into which he goes in some detail. "My Dear Sir, I have been expecting a letter from you for a very long time, when I received a short time ago that very *short* note, which I was sorry to see gave me so very little news about Tichborne especially about the new scheme which Mr. Hopkins had made up not long ago. He has written to me a very long letter about it. It is quite a new thing to me altogether; he has never mentioned a word to me about it when I saw him last at Tichborne. He wants my consent to raise 30,000*l.* as a fortune for my Brother. What are the foundations upon which he puts such a question I dont fully understand. I cannot make out by his last letter if that sum of money is to be understood as my Mother's fortune, which does not amount to such a sum, or if my Mother's fortune is to be given to him, as it was Mr. Seymour's intention, with some more money raised upon the property. He

sais that my Father has the power to raise 8,000*l.* for my Brother when he comes into possession. I never knew it before. Mr. Hopkins mentions that it is all explained in the clause 8 ; which is this, ‘Also if Mr. R. C. Tichborne shall have issue and die in the lifetime of Sir Edward and Mr. Tichborne, a yearly sum of 500*l.* to be payable by the tenant for the support of such issue.’ I see nothing in that clause which relates to my brother’s fortune. I wrote not long ago to Mr. Hopkins about that clause 8. I told him that I found 500*l.* very little for the support of issue supposing that I had any and should die during my Father and Uncle’s lifetime. He has not answered my question about it, it is what will oblige me to write to him again to ask an explanation about it. I should be much obliged to you if you had the kindness to write me by return of post what you have heard about it. I suppose that Lady Doughty occupies herself much of what is going on”—that is French—“between Mr. Hopkins and myself and of the new scheme which is to be sent to me shortly and also of the different papers which I am to sign. I don’t suppose that my uncle is able to occupy himself much about it. Mr. Hopkins wrote me some time ago that the conversation which he had with my father went on in the most satisfactory manner; I wrote the next day to my Father to express how glad I was that every thing went on so well: I also mentioned that I hoped he had read all the different documents to be able to form a judgment of his own upon the subject I have not received an answer to my letter.”

Then he writes a letter to Mr. Henry Seymour on the 17th of March, which shows that at this time he was amusing himself a good deal by going into society in Dublin, and not leading the sort of moping life that has been more than once represented. “I am sorry to say that the whole of the Dublin garrison is to be changed at the end of this month or at the beginning of next We are to go to the west of Ireland, our head quarters are to be Cahir, two troops are to go to Limerick and one troop at Gort; as I have not finished my drills, I am to go to Cahir. I am rather sorry to leave Dublin just at the time when I begin to know many persons which makes the place very pleasant to me. There are a great many balls and parties going on at present in Dublin. I went to the first levee, and to the first drawing-rooms, the veriaty”—that is spelt in a curious way “v-c-r-i-a-t-y”—“of uniforms and dresses of every kind made it a very fine sight to see. Several balls were given at the Castle to which I went, they were very fine ones. I went also to a great many private balls which were given in Dublin, they were generally very good ones. But the finest ball to which I have been is the one which was given a short time ago by Sir Edward Blakeney as a farewell one to the Dublin garrison one of the finest ball”—

instead of balls in the plural—"I have seen as yet. I was very happy to receive a short time ago a letter from my Father in which he informs me that he is going to bring my Brother to England after Easter to put him to School at Downside. I am very happy that he has adopted such a plan and I hope moreover that he will keep to it and not alter his mind. I am moreover very glad that he has chosen Downside instead of Stonyhurst. I should have been very sorry to have seen my Brother placed at Stonyhurst"—I suppose he thought the discipline of the school was not sufficiently strict, and that young lads did not profit as much as they might have been made to profit—"I hope My Dear Henry that you have had my Brother's name put down for the Guards; there is no time to lose about it because he will be obliged to wait very long for his commission. I heard that my uncle was going to London I don't suppose that he will remain there for the season. I was very sorry to learn some time ago the death of Mrs. Hopkinson It must be I am sure a very sad blow to your family especially after Mr. Seymour's recent death."

Now comes the first indication of a desire, whether his regiment went to India or not, or might be ordered for foreign service or not, to go on service to India, and he writes his intention on that subject to his aunt in a private communication dated March 27th:—"My Dear Aunt. You must have found me very strange for having been so long in answering your last private letter, to say the truth I have been so very occupied lately that I have had but little time to think and write the different thoughts and resolutions which I have formed, and which have occupied me lately. I am much obliged to you for the frankness which you have shewn me in your letter, and I hope to be able to do the same in this, and moreover that you will keep the secret which you have shewn me on previous occasions, and that you will judge of what I say with impartiality."—The words "the secret," which occurs there may have either of two meanings. *Le secret* in French is "secrecy" as well as "the secret." It would depend on the context whether the one or the other meaning is intended; when we say "secrecy" we do not mean a particular secret; but when we say "the secret," we mean some particular secret. He either might have meant by the words "the secret," or have used the words, as we shall find his mother does, not with reference to some particular matter which is to be kept secret, but as meaning secrecy, as a general term. The words *le secret* in French meaning secrecy, although from the context it may be interpreted to mean a particular secret, Roger here appears to have used them in the sense of secrecy—"the secret which you have shewn me on previous occasions and that you will judge of what I say with impartiality. I intend writing very shortly to the Horse Guards to ask leave to exchange in the 15 Hussars. This Regiment has been in India for several years and is

likely to come back to England in 8 or 10 years. It is, I am told, a very good Regiment to exchange in at present for several reasons, among them that a person who exchanges into that Regiment at present will have the advantage when the Regiment comes back to England the advantage of foreign service which is a great thing in the army. You must not think that my wish to exchange comes from my not being pleased with my Regiment. It is, I am sure, anything but that, or upon what I have told you upon former occasions; no, you would be mistaken if you thought anything of the kind. My wish of exchanging comes from two reasons, the first that I am fond of my profession and I wish to follow it up, secondly that I find that I can live much better for my money abroad than in England. I intend to let my family know my intentions very soon, so dont say a single word about it to anybody till you hear of it by others. Pray be so kind as to answer me by return of post."

He receives an answer expostulating in strong terms against the intention which he had thus expressed to exchange into a regiment in India. What was the exact motive which led him to entertain or express so ardent a wish to go to India either with his own regiment if that should be ordered to go there, or by exchanging into some other regiment in India, if his own was not to go there, I have not been able to decide satisfactorily to my own mind. Whether he was quite sincere in this matter I hardly know; whether it was intended to operate on Lady Doughty's mind, and to induce her, in order to prevent his going to India, to hold out the inducement of his cousin's hand; whether he thought that in order to prevent his taking a step which he knew would be so painful to all his relations, he should work on her to induce her to consent to the marriage; or whether he really was fond of his profession and got tired of it at home and wished to see active service abroad; or whether the two things may have concurred, I do not know. But he certainly does seem at this period, from the early part of 1850, to have had constantly present to his mind the idea of going to India, and he mentions it to his aunt for the first time in the letter which I have just read.

She answers him in very strong terms. The letter is dated "Good Friday," 1850, which by reference to the almanack we find to have been the 29th of March. "After having waited to the end of January for an answer to that letter which cost me so much exertion at the time to write, I feel it is rather a strong request to ask me to answer you by return of post on this busy day; however, your request shall be complied with, & I frankly at once commence by telling you that I think your present plan requires very deep consideration, & you are not justified in so entirely disregarding the feelings of those to whom you owe respect, love, & support. Should you desert

a Father and Uncle to whom you are heir, both of whom are alas! not likely to be long in this world, both nearer seventy than sixty (my dear husband was 68 last Wednesday 27th), & both are at this moment satisfied by the thought that you are happy & in a Regiment you like? I ask you (setting aside the feeling of all others to whom you are dear) would not the disappointment be justly felt most deeply by those two who could not expect ever to see you again after a ten years' residence in India? It was only when I was in Town last week that I happened to hear an old Officer speaking of the extreme idle life an officer led in India when there was not War actually going on, and that it was the ruin of young men. Again, would it not give rather an unfavourable impression of you at the Horse Guards so early as within six months of entering the Army to wish to exchange? It would give an impression of undsteadiness of purpose your character does not deserve. Now dear Roger I beg you to read your own heart candidly, and there see whence this return of your wish to go to India arises. Is it not that you have not fulfilled the excellent resolutions which you formed when leaving this place in Jan^y, & that you are again stifling the voice of conscience & the feelings of affection which perhaps were leading you to good, & then with a desperate feeling you think of India as a means of throwing away care & drowning conscience & blinding yourself with the idea of its being 'a love of your profession' that would take you there probably to the ruin of your health in this World & your soul in the next"—I do not quite understand this expression. I do not know why a man's soul should be more in danger in India than it is in any other part of the world. However, there it is—"Now first as last before you take any step remember this is Easter Time & draw down the blessing of God & direction for your future life by fulfilling your duties at this Holy time with sincerity & fervor & you will find the comfort to your mind & heart which it requires before any great resolution. I have had & shall continue to have many good Prayers said for you. Now I turn to other subjects hoping very very soon to have a letter from you as candid as mine to you & till I have that I cannot know whether you understood or misinterpreted my letter as I almost suspect you did." To which he replies thus: "My dear Aunt. I was very sorry to see by your last letter that my last one had somewhat vexed you, such was not my intention. When I said that I thought of exchanging into the 15th Hussars I mentioned in my letter if you remember that I would never think of exchanging before I had finished my drills, and it will be about five months time before I have finished them all. By that time I shall have enough time to think well about what I intend to do. I wish I could see you before that time to be able to talk the subject over with you. But as I am not able to go to England, I shall explain my reasons

by writing as well as I can. I have told you many times when I was at Tichborne last year that I should like very much to go abroad. You have made some objections by telling me that it was my duty to remain in England. I objected to that if you remember by saying that if I died during the time of my absence I had a brother who would take my place and I am sure fulfil the duties of his situation much better than I could. You have spoken to me of an affection which I had formed (what you said is true). What shall I ever be worth? nothing. Suppose now for a moment that I should be at the head of the family, I should most likely be a stranger to my new situation and not fulfilling duties as well as could be wished. So you see that it is much better to bring one up to that situation so that he fulfil his duties before God and men in a satisfactory manner. I only wish one thing My Dear Aunt. It is that in some years hence, you may in your spare moments give me a solitary thought, and say, well he gave up his place to one who fulfils it well to his expectations. R. C. T. (I may form affections but nobody can ever care for me.) *Private*. I wish this letter to be burnt as soon as read."

Now, if that last sentence is the sincere and genuine expression of his thoughts one might find a key to the desire which he manifests of leaving this country and going abroad. If his heart was set upon marriage with his cousin, but he had no reason up to that time to believe that his affection was reciprocated; and if he felt that the concurrence of Lady Doughty and of his uncle would be, under the circumstances, very doubtful, even if his cousin should return his affection, we can quite understand his saying, "with this one thought, and this one passion perpetually haunting me, and which I know will only end in disappointment because my affection will not be returned, the best thing I can do will be to get away from the country and from home duty, and go into the more active occupation of foreign service. Active service, change of scene, may lead to new thoughts, and efface feelings and hopes which can only end in disappointment and distress. Let me get away from this life; let me go abroad." If the last expression of his sentiment is truthful, I can perfectly understand why Roger Tichborne should desire to go abroad to India. But it may also, as I said before, have been that he thought that the declaration of his intention to go to India would lead to a different result; or that even if they let him go there, they would very soon be desirous of getting him back, and might yield upon the one point upon which he was so desirous of having his hopes and wishes realized.

Thus far we have been following Roger Tichborne and his correspondence while his regiment was at Portobello, but in the month of April the head-quarters of the regiment were changed. I ought to

have mentioned that when Roger Tichborne entered the Carabineers he was attached to the troop in that regiment which was commanded by the Hon. Captain, and subsequently Major, Jocelyn, the F troop. When the head-quarters of the regiment were transferred from Dublin to Cahir, Captain Jocelyn's troop was sent on detachment to Limerick, as Captain Jocelyn told us; and for some reason or other—I think Roger explains the reason, namely, that he had not completed his drill, and the drill was carried on at head-quarters—he was detained at head-quarters while the troop to which he belonged went on to Limerick. Whether at head-quarters he was at once transferred to the troop he afterwards belonged to, the A troop—the troop commanded by Captain Polhill-Turner—I do not know. I have looked at the evidence since, but I cannot exactly make it out. He afterwards was undoubtedly transferred to the troop commanded by Captain Polhill-Turner, then Captain Polhill. Whether that was so, as I have just said, when he first went to Cahir and was separated from the troop of Captain Jocelyn, to which he originally belonged, I do not know; but I ask you to bear in mind, with a view to its future effect, that he did not originally belong to the A troop, Captain Polhill-Turner's troop, but belonged to the F troop, the troop commanded by Captain Jocelyn.

While on the march to Cahir, he writes on the 10th of April to Mr. Vincent Gosford, “I had the pleasure of receiving your last letter few days ago, with the one from Strickland. I am at present on my line of march. I left Dublin last Friday morning at 7 o'clock. I have not been able to write to Mr. Hopkins, I have had so very little time to myself to think about those deeds that it was quite impossible for me to think anything about it. Colonel Jackson is to leave us very shortly. He is much regreted”—spelt with one “t”—“by all his officers; that will give me a step, it will make me post cornet. I hope to have my lieutenancy by the end of the year or the beginning of next. I have almost made up my mind to exchange into 15th Hussars as soon as I shall be lieutenant. They are in India at present, they will remain there about 8 or 10 years longer. It is a very good exchange to make at present; because when they will come back to England a young man will have the advantage of having seen active service, which is a great thing. That plan will perhaps surprise you”—the “r” is omitted, but as he elsewhere spells “surprise” right, I suppose that is a mere casual mistake—“But at the same time it is a good thing for me to do as I intend to follow my profession. Will you tell Lady Doughty that I shall write to her as soon as I shall arrive at Cahir.” After his arrival at Cahir he writes to Mr. Hopkins, “I have not been able to write to you sooner, because my occupations having much increased by my being obliged to march off from Dublin in a short

time left me but very little time to think about the deeds especially upon the new plan which has been brought forward. But if you will give me few days longer I shall be able to think well upon them and to write what opinion I have formed upon the subject. Colonel Jackson is to leave the Regiment in about a month or six weeks time."

Now, all these letters in which he desires to have time to reflect on the scheme, or states he has been thinking about it, or studying it, are most important, because they are written at a time when he was not, and could not, be under the influence of Mr. Vincent Gosford. When it is stated that Mr. Vincent Gosford suggested this or that scheme, the settlement or the will, it is very important to see whether at the time Roger Tichborne formed his final resolution about the matter he was subject to Mr. Vincent Gosford's influence or not. All these letters are written from Cahir, where he was far removed from any personal influence that that gentleman could exercise.

He writes to his aunt on the 13th April. "I went a short time before I left Dublin to Barmeth to see Edward Bellew, who had just returned from Germany. I saw Lord Bellew"—that is the present Lord Bellew's late father—"who told me that he had seen you in London, he told me that you expected to see me during the course of this month. Nothing could give me more pleasure I am sure than to be able to go over to England for a short time. But I am sorry to say that it will be quite impossible for me to obtain any kind of leave till next March." Then he says, "I was very happy to learn that my Father had brought my Brother over to England to send him to School. He is quite old enough to be placed in a College. I was very glad to learn at the same time that he was going to Downside, he will be much better there than at Stonyhurst." Then, "I was very glad to receive a few days ago a letter from Walter Strickland. It gave me much pleasure to hear from him; he tells me that he expects to be in England towards the middle of this year, I shall be very happy to see him when he comes to Ireland." This shows that the correspondence between these young men was kept up.

Next comes a letter to Vincent Gosford about property and furniture, dated the 15th April. "I had the pleasure of receiving your last letter two days ago. I was very happy to learn by it that the week had gone by so smoothly between my Father and Uncle"—They were two fiery spirits and had hasty tempers, and a word was sufficient to cause an explosion—"I suppose that by this time you have received the letter which I wrote to you on my line of march. The contents of it may have perhaps surprised you, but such is I am nearly sure what I shall do when I get my Lieutenancy, which will be in about five or six month's time. I suppose

that Lady Doughty troubles herself a great deal about what is going on with the Lawyers, she must have been very sorry at not having been able to take part in their discussion about the house furniture. I fancy that she talked much about it to my Uncle. I can not make out what she could have ment"—this is a form of spelling common both to the letters of the undoubted Roger, and to those of the defendant—"to do with it if it had been given to her after my Uncle's death. It appears to me that she ought to have found it much more desirable that the furniture should remain in the house instead of going out of it. I have not been able as yet to write to Mr. Hopkins about the deeds for want of time, but I intend studying them, and write what opinion I have formed upon them. I have written to Lady Doughty my project of exchangin"—without the final "g"; he frequently makes a similar mistake—"into the 15th Hussars (but don't appear to know anything about it, even if she was to speak to you about it, because I have written it to her private, as I do to you), I wrote that such was my intention, and such I believe I shall follow, I have nearly made up my mind to it. I shall have, I fear, much trouble with my family when I shall let it know publicly that such is my intention, but I hope to be able to get over those difficulties with time and reesoning"—"reasoning" written "ree" instead of "rea" in the first syllable—"I don't suppose that my Father will remain long in England after he has placed my Brothor at Downside, I fancy that he will go back to Paris directly. I should be obliged to you if you had the kindness to *write me a long letter* to let me know what is going on at Tichborne, and what those Lawyers are doing. I know nothing but what Mr. Hopkins tells me, and it is very partial." He writes to Mr. Gosford again on the 17th. "I suppose that by this time you have received both my letters, and had time to form an opinion upon the new plan which I have formed. I should feel much obliged to you if you had the kindness to write to me to let me know what is going on at Tichborne, and how matters stand with the Lawyers. I fancy that Mr. Hopkins is all body and soul in those Deeds. I don't fancy that my Father has ever read a single word about them"—thus contrasting the way in which his father allowed himself to be led and guided by Mr. Hopkins, instead of himself studying the deeds and mastering the subject matter of them, with the course which he, Roger Tichborne, made a point of pursuing—"I have not heard from Lady Doughty since I wrote you last, but I hope to receive a letter from her soon. I cannot help thinking that my plan may grief her"—the substantive instead of the verb—"as it will most likely do to the rest of my family, when the moment will come, but such is, I may say, the resolution upon which I have nearly set my mind upon. I fancy that it will be next to impossible to get my

Father's consent, but however I shall try to obtain it, if it is possible. I have not, as I told you in my last letter, spoken of it to anybody as yet, except in a private letter to Lady Doughty, and to you, so that I wish you to keep it secret for the present. It will make, I am sure, a great change in the family. But such is I am nearly sure the best thing I can do, as I intend to follow up my profession." Then comes a letter from Lady Doughty, dated the 27th of April. "I really have not had time to answer your letters before, but if by using the word 'vexed' you mean 'angry' you are wrong. I was not angry, but as you asked me I pointed out all the objections to your idea of exchanging into a Regiment in India, but you have months to think about it & I hope you will do so. I told L^d Bellew that probably we should see you soon, because I heard that the Deeds were so voluminous that it would be very inconvenient to carry them to Ireland, & having been told positively that leave was always granted if it was represented as necessary for family deeds to be signed or in fine any case of urgent business, & if you had therefore leave no doubt we should have the pleasure of seeing you here. I thought probably you might apply for it. Your Father staid here a week. He was looking remarkably well & in good spirits & the visit passed very agreeably." Then she says that Mrs. Greenwood is going to dine there: "they dine here next Tuesday 30th for your Cousin's birth day, and she begs I will give you her love, & tell you to be sure to say a prayer for her before the little Crucifix on that day, & you may add one for me to thank God that she"—that is his cousin—"will be 16 on that day." Then she says: "I am certainly sorry you have left Dublin, because I am afraid your love of solitude will return upon you. Who is to be your Colⁿ instead of Colⁿ Jackson? & now my dearest Roger I come to the last part of your private letter, & say in answer to your line 'but nobody can ever care for me' it is your own fault if they *do not*." Now when Roger was speaking about forming affections and that nobody would ever care for him, we know very well in what direction that was pointed, and so his aunt seems to have understood it. She says: "If you had resolution to live up to what you know to be right & to conquer bad habits & be all that God designed you to be, & which is not difficult if you would only use that energy of character you possess, & ask God in his mercy to give you grace, then you would be, believe me, a happier man in yourself, & you need no longer repeat that question. It is true pleasure is fleeting in this World. Why? because it is not the World we are to live in for ever, but only that World in which we are to try to prepare for *lasting happiness hereafter* which will not be fleeting. As to your being a stranger to your future situation you know enough of English life now to convince you (especially with the good adviser you would

I trust always have) that to make those around you happy & do your duty is not so very difficult. Why should we look to Alfred? why should we not continue to look & be attached to you, my dearest Roger, who have shewn us so much kind feeling? Your Uncle sends you his affectionate love and your Cousin."

He next writes to his aunt about Cahir, giving a description of the country, and I do not think this is altogether unimportant with reference to his power of description and command of language; I do not mean that it is the language of an accomplished writer, of a person who has any pretension to style or composition, nor is it at all free from mistakes; but if the latter may be ascribed to his imperfect knowledge of the language, the style is that of an educated person and one that no man, unless he has some pretension to literary composition, need be ashamed of. "I shall be very happy to give you a good description of the uncivilized place where I am at present as I possibly can. The country round Cahir is very fine, the town is surrounded by very high hills. The different views from the top of some of those hills are beautiful. The soil in some of this country is very poor, but what is more wonderful is the scarcity of habitations. I have been several times on elevated points"—he writes an "e" where there ought to be an "a"—"from which places I had a good view of the country. I was surprised to see how very few Cottages were to be seen. But the quantity of houses and cottages in ruin is very great, and what is more curious is the great number of old churches in ruin, some of them very large, is very great in this part of Ireland. I have visited several of them with great interest. There are many bogs about Cahir. I had the pleasure of getting into one of them the other day with my horse out hunting. Some of those bogs are I believe very deep. There is no Society whatever about Cahir; there is a little I believe at Klonmel but Klonmel is 9 Irish miles from the Barracks. I have a long way to go to chapel on Sunday, as I am the only Catholic officer in this place. I have to march the soldiers to chapel every Sunday, the distance I have to walk is a mile and a half which makes a walk of three English miles." You remember one of the officers stated as a proof that Roger Tichborne's religion was sincere, that he made a point of always attending mass, no matter what the weather might be, and that even when the weather was too bad for the commanding officer to allow the men to go to church, Roger Tichborne always walked to the Roman Catholic church, whatever the weather might be, this distance which he speaks of, and back again. Then he goes on talking about the regiment and his expectation of leave, and he says, "I fear that I shall not be able to obtain leave especially at present, because the three Troops which are here," that is at Cahir, "are to be inspected by the General very shortly." We know state-

ments were made with reference to what passed at the inspection of those troops at Cahir, and this will help us to fix the date of one of the inspections which took place. He says "the inspection is expected to take place very shortly;" you will find in a subsequent letter it did take place. There is a passage I ought to refer to for the sake of the spelling of a word. He writes: "The officer who is to take command of the regiment when Colonel Jackson leaves is Colonel Hay who has been Magor"—instead of major—"in the regiment for many years. I shall be by that time first cornet and by the last accounts I heard I shall get my Lieutenancy before few months are over." Now writing the word "major" with a "g" might be accidental; it seems difficult to suppose that an officer in a regiment, who must have seen the word "major" written again and again with reference to the name of the particular officer who held that position in the regiment, should have been so stupid as to write "magor" instead of "major;" and I should have passed it by as an accidental circumstance, but I am bound to notice it, and for this reason, the same thing occurs in the writing of the defendant. It is difficult to suppose Roger Tichborne really did not know how to write the word "major"—writing it with a "G" instead of a "J"—but the same thing happens with the defendant; and it is therefore necessary to take notice of so very startling and peculiar a mistake. When the defendant came to write either about or to Major Norbury, he in like manner on more than one occasion substitutes the "G" for the "J."

Then there is a letter to Mr. Vincent Gosford about the probability of exchanging, and so forth: which I will not read at length, but upon which I must observe that there are two mistakes, not indeed characteristic of Roger Tichborne but which I think it necessary to point out. There are two instances in that letter in which he writes "has" for "as." Now that happens very, very frequently in the letters of the defendant. It is not at all of frequent occurrence in the letters of Roger Tichborne, but it is right to point it out to you where it occurs. At the end of the letter he says, "I intend to write to Mr. Hopkins that I have never been able to understand a word about those 30,000*l.* which are to be given to my Brother. I cannot make out from what source that money is to be taken from. Pray let me soon hear from you and don't mention what I say in my letters to anybody." Then comes a letter to Mr. Gosford, upon which observation has been made as showing that the mind of Roger Tichborne was coarse and indelicate. But it should be observed that it was only intended to be seen by Gosford. "It is some time since I had last the pleasure of receiving a letter from you. Since I wrote to you last I have received the visit of Mr. Hopkins who brought with him the different Deeds and Settlements which

I had to sign before he left the place. You will be glad to learn that I have signed them, and that the great business has at last been got to a conclusion. My Uncle, I fancy, will be glad to learn that the deeds have been signed. I don't know if Lady Doughty will be pleased when she will learn the different alterations which have been made, and to which I have assented"—instead of "assented."—"I could not help laughing when I came to read the latter part of the deed, which says that after my Uncle's death Lady Doughty could choose among the furnitur any chairs, stools (I don't know if there are any night ones included), and other pieces of furnitur bought by Sir Edward; that she might also choose any other articles of piety which she liked. I am sure that there are enough prayer books at Tichborne to furnish the whole parish. The conclusion of that deed is certainly one of the most laughable things I have seen for a long time. Its all what I could do to keep my serious"—this is not English but is a literal translation of the French phrase *maintenir mon serieux*—"when Mr. Hopkins was reading to me about those different articles. Don't repeat what I have said about the night stools to anybody"—showing that he only meant that as a joke between Mr. Vincent Gosford and himself—"I suppose that Lady Doughty troubled herself much when she learned that Mr. Hopkins was coming over to Ireland to see me with the Deeds. I was very sorry at not being able to go to England for a short time to sign them, but unfortunately I could not expect to obtain leave, especially after having obtained it once before for family purposes. It would have given me much pleasure to have been able to pass a short time at Tichborne to be able to have some conversation with you on different subjects which I am partly unable to discuss in a letter. I fancy that you have sometimes some conversation with Lady Doughty about those Deeds. I suppose there was much gaiety at Tichborne for my Cousin's birthday. I fancy that you distinguished yourself in the dancing line at the servants' ball. I have heard nothing new about my promotion, but I am taking all the necessary information about my exchange, which I am able to see at present"—there is something omitted here—"able to make without any loss of money on my part. I have in some way changed my mind about the regiment into which I intended to have exchanged in. I think at present that, instead of the 15th Hussars I shall exchange into another Cavalry Regiment. I have been told some time ago that the exchange is some time paid up to the amount of 800*l.*, and it will be rather a good thing for me, as it will clear all my expenses. I don't expect that my family will furnish me with any money for my exchange: fortunatly"—that is another word he always or nearly always spells wrong, n-a-t-l-y instead of n-a-t-e-l-y—"all my expenses will be paid by the officer with whom I shall exchange. I remain,

My dear Sir, hoping to have soon the pleasure of hearing from you,
Truly yours, R. C. Tichborne."

The Doughty settlement was now finally executed: I have already stated to you what was in it. It created and vested in trustees a term of 800 years for the purpose of raising the sum of 100,000*l.* to relieve and aggrandize the Tichborne property; it enabled Sir Edward Doughty to charge a sum of 10,000*l.* upon the estate for any purpose that he might direct by his will. It vested in Roger the reversion in the Doughty estate after the life interests of his uncle and his father should have expired. So the matter stood on the settlement of that estate: there being thus, as you see, this distinction between Tichborne and Doughty, that so far as regards Tichborne the limitation and dispositions of the property under the settlement of 1844 could not be touched, while on the other hand the settlement of the Doughty estate in 1850 enabled Roger Tichborne, subject to the prior life estates of his uncle and his father, to dispose of that property, or to charge it in such manner as he should think proper, either by deed, or by his will to take effect upon his death.

The settlement having been executed, there is a letter—and I think it is the only one we have—from Sir Edward Doughty to Roger. "Tichborne Park, May 26th 1850. My dear Roger. I waited till the return of Mr. Hopkins from Paris with the Deeds which he took over for your Father's signature before I wrote to you. I am very much pleased with you for having so promptly signed them and I hope that it will be a long time before you are troubled with more business. I am happy to hear that you are still pleased with your Regiment & trust that your new Commanding Officer will be as agreeable to you as Colonel Jackson was." Then he talks of members of the family, and then comes this passage: "I have not been successful in letting Upton, which I particularly regret. As it is not in my power to keep it in proper order & repair, the value of it will be less and less if it is not occupied. It would be very advantageous to us all if you would consent to its being sold. I hear from Alfred that he is happy at Downside," and so forth.

On the 26th of May Roger writes to Gosford: "I had been expecting a letter from you for a long time when I had the pleasure of receiving your last two days ago. I was much amused at the account"—"account" being written with one "c"—"which you gave of Lady Doughty's little schemes. It must be I have no doubt to her suggestion"—instead of "*at* her suggestion"—"that the last page of the deed was written. I wish you had time to look over that page. I have no doubt you would discover several other curiosities which I have forgotten to mention in my last letter. Among the different articles which Lady Doughty is to have after Sir Edward's death

she has the power of taking the different pictures and busts of the Arundell family. The idea of mentioning such nonsense in a deed; that, with the stools, makes the latter part of that deed worth"—instead of "worthy"—"being send to 'Punch.' I am sure that I have seen many articles in 'Punch' not half so laughable as the last page of that deed." This shows the keen eye he had to his own interest, even in very minor matters.

Lady Doughty had desired to have these articles of furniture, and she had succeeded in getting that concession made to her. Roger did not like it, so he makes the sneering observation that I have just read to you. Then he says: "I cannot make out why Lady Doughty has not written to me since the middle of last month. The only cause to which I can attribute her silence towards me is that she is perhaps vexed against me for having formed the plan of serving my time in the army in India. I am rather surprised that she has never inquired if you knew anything about it, but at the same time I am glad to see that she can keep a secret so well. If she mentions the subject to you, I should be much obliged if you had the kindness to let me know what she said about it. I should be very much obliged to you if you had the kindness to tell Lady Doughty that I should be much obliged if she had the kindness to write to me, and that I have not received a letter from her for last six weeks. I wish I could see you to have some conversation on several subjects, which I fear would be too long and too difficult to explain clearly on paper. But I hope to see you somewhere before I leave the country, because I am afraid that it will be quite impossible to come anything like in sight of my family, for I expect that they will be so vexed against me that I shall not be able to go to Tichborne. But on all cases"—a translation of the French phrase, *dans tous les cas*, at all events,—"I shall try to see you somewhere or another before I leave England because I have several things which I wish to settle before I leave the country. You may rest assure that anything which you—" Something, I do not know what, is here omitted, I suppose "say" or "write"—"private or not, I never will mention to anybody whatsoever, and if anybody tells you that he has heard anything from me, don't believe it. As I give you that assurance you can tell me what is going on, and especially I should be much obliged to you if you had the kindness to let me know what will be said when I shall have made my resolution known. I am first cornet at present but I am sorry to say that I shall have an examination to go through to get my lieutenancy."

On the 6th of June he writes to his mother, and speaks of Alfred having been placed at Downside, the mother being evidently fretting and fuming about Alfred being put to school. He says, "I wish my dear mother that you would not pain yourself so much about Alfred

being placed at School. He is just the age to derive some benefit from it; it would have been a great misfortune for him if the time of being sent to school had been delayed any longer. Downside is a very good college, and he will be well taken care of." Then there is mention of some of his former fellow-students, which shows that though he had lost sight of Stonyhurst he still recollected them. "I was quite surprised that you had received some time ago the visit of two of my old school-fellows. I suppose that the two Berkeleys will make some stay in Paris. They are two very nice young men; I have not seen them since I left College; they must be much changed since that time. I am glad that Edward Berkeley is going to see *Le Brasseur*"—another of the philosophers—"at Antwerp and pass some time with him." Then he goes on to talk about Paris; and then he says—"I was glad to learn by your letter that you admired our uniforms. It is a very neat dress, if I could get the picture of the uniform with the new helmet, I should send it to you with much pleasure, but unfortunately it is not published yet. The present dress is the same, only the helmet is handsomer: it is the same as the Life Guards, except instead of steel it is of quilted brass with a black plume. We have had"—this is in June—"we have had not long ago an inspection: the General came from Limerick"—that is General Napier, the one-armed General—"the General came from Limerick to inspect the Regiment. He was I believe much pleased with the Regiment, and with the different evolutions which we performed before him." I take for granted it could not have been at that inspection that the confusion occurred of which the defendant has told us, when he says Captain Polhill-Turner's troop got into a difficulty, and Captain Polhill-Turner forgot the word of command and he gave it in his stead, and so brought off the troop, which otherwise must have remained in the barrack-yard for the want of the word of command. It could not have happened on that occasion, because we know that when it did happen, both officers and men were sentenced to extra drill, while at this inspection Roger Tichborne tells us the General was pleased with the manner in which the troops performed their evolutions.

He writes to Mr. Gosford on the 30th of June: the only part of that letter worthy of notice is what he writes about Upton. "I have not had any news from Tichborne for a long time. I should feel obliged if you wrote me as soon as you can. I wrote to my Uncle a short time ago and I expressed to him that it was not my intention to consent to the sale of Upton"—You remember in the letter I read to you from Sir Edward Doughty, Sir Edward pressed upon him the sale of Upton as a thing beneficial to all parties—"I hope what I said about it will settle all about it, and that my Uncle will not again mention the subject to me." Then there is a letter from

Walter Strickland, which is only valuable as showing the confidential intimacy which existed between those two young men. He is writing from "H. M. S. Amphitrite, Valparaiso, April 29th, 1850. My dear Roger, Most kind letters from your very dear Uncle and Aunt tell me of your having attained the two great objects of your wishes, your commission & your twenty-first birthday. They have however forgotten to tell me your regiment, so I must as usual enclose this to them. Need I tell you my dear Roger how heartily I congratulate you on the above two great events. How much you will have altered in the three passed years! I often think of you & try to imagine what sort of a fellow you will be when once more we grasp each other by the hand. You will find me too altered I expect, for three years must make a great change in every one. I look forward to spending at least a short time with you at Loughglyn"—that was his father's place—"though I fear you will find it rather dull to remain long at such an out of the way place. If we are there together in September we can have good grouse shooting on the wild bogs of the west, but except this, books and chat must be sufficient to amuse us. We shall have a good deal to talk over together, that is if we meet with the same mutual confidence with which we parted, and which I sincerely hope nothing will ever occur to disturb. I find the not having any one near me to whom I can give my confidence the greatest drawback to my profession; but this must be more or less the case in every public calling." Then he adverts to Polonius' advice to Laertes in *Hamlet*, which we need not repeat here. Then he says, "As I shall be home so soon after this it is no use spinning you a long yarn now, so I will bid you good bye, and with every possible hearty good wish for your happiness & prosperity, Believe me to be, My dear Roger, Your Sincerely Attached friend, WALTER STRICKLAND."

In his next letter to his aunt Roger refers to a matter which was brought forward upon the present occasion, and which I think might very well have been spared. A question was put to Mrs. Higgins when she was in the witness-box as to whether her marriage with the late Mr. Higgins had not been a marriage unacceptable to her family, and among others to Roger Tichborne. Why that should have been brought forward except to gratify a sort of spiteful vindictiveness, which appeared to be part of the spirit of this defence, against the late Mr. Higgins, because he seems from the beginning to have disputed the identity of the defendant, and set himself in opposition to him, I cannot understand: as to saying that Roger ever felt any displeasure at the former Mrs. Bennett's marrying Mr. Higgins her second husband—there is no trace of it at all. The only time he speaks about it is in this letter to his aunt, of the 9th July, 1850, in which he merely expresses his surprise. "I had the pleasure of receiving your last very kind letter the day before yesterday. I

was much surprised to learn by it Mrs. Bennett's marriage." Lady Doughty having said that Mr. Higgins had proposed more than once before she accepted him, Roger says: "I never knew that Mr. Higgins proposed to her on some previous occasions. This occurrence will, I have no doubt, make a great change in Lady Tichborne's home"—that is in the house of her mother, with whom she had previously been living.

In a letter to Mr. Vincent Gosford, of 18th of July, 1850, he speaks of his father being at Tichborne, and says, "I hope that everything goes on smoothly between him and my uncle." Then he says, "I suppose that my father and my uncle have had much talking about the settlement. I have no doubt that my father expressed to you how sorry he was at my not wishing Upton to be sold. I have not heard anything more about the subject for a long time." Then, "I fancy that you have sometimes long conversations with Lady Doughty as you used to have when I was at Tichborne: does she ever ask you if I often write to you?"

Next comes a letter important only in one respect, as showing that Roger Tichborne was acquainted with his mother's Christian name; and strange it would be if he had not been so. What son grows up to the age Roger Tichborne attained without knowing what his mother's name is? Of course, he must have heard his father address her by name hundreds of times; and that he knew her name is perfectly certain from the fact I am about to advert to of his writing to her about her Saint's day. You are all aware, no doubt, that instead of wishing people joy on their birthday, as is done in England, in France congratulations are offered and compliments paid, and sometimes presents made, to persons on their Saint's day: I suppose there is in the Roman Catholic calendar a Sainte Henriette; but with the circumstances of the life of that female saint, I cannot profess myself at all acquainted. I am not, I confess to my shame, familiar with the Calendar of the Saints, and I do not know anything about Sainte Henriette; but Roger Tichborne, I presume, did. At all events, it is plain from this letter he knew his mother's name was Henriette, and therefore it was right for him to pay her his compliments and express his good wishes on the occasion of the Saint's day: but being occupied with his drill and so forth, I suppose he forgot the exact day, and let it pass without notice, and he apologises for it. "I had forgotten that La Sainte Henriette was on the 15th of this month, otherwise I should have made it a point of writing sooner." This shows very plainly that he knew what his mother's Christian name was. That letter brings us down to the 22nd of July, which is the last letter written from Cahir in July.

In the ensuing month of August he writes to Mr. Gosford a letter, in which he states very explicitly what his views and intentions are

at that time: "I had the pleasure of receiving your last letter yesterday. I am not in the least surprised at several remarks which you made about Lady Doughty. I know enough of her character to see that all what you say is perfectly true. There is a peculiarity which has taken place a short time ago, and which is the cause that Lady Doughty and I are not on the best terms. It is what explains to me why she never mentions my name before you or never writes to me"—At that time the correspondence had slackened—"The last letter which I received from her is, as far as I can remember, more than six weeks ago. I never would have thought that such a trifle would have been the cause of a kind of rupture between us. The cause is, as far as I can judge, this: I wrote several times to Lady Doughty about my intention of going to India till about (as far as I can remember), six weeks or two months, when I wrote to her that not receiving any more answers to my private letters, I thought that our private correspondence was nearly brought to a conclusion. I have never heard or received any letters from her since that time. I don't talk at present of my plan of going to India, but it is all the same fully my intention. I have always wished to serve in that country, but my father objecting to it and my not being of age prevented me from carrying that plan into execution. It will be a very good thing for the property, because it will enable the trustees to pay the debt which is on it sooner. My intention is to go to India for 10 years; I hope that in that length of time the property will be set to right"—instead of to rights—"again, because it is not even so the difficulty of paying the debt which is on the property which is very great, but it is of building and repairing the different farms and cottages, which with different other things will amount to a considerable sum of money; and it appears difficult for me to remain in England and live on property which has debts upon it nearly twice its value (thanks to my blessed relatives)."—Now, this is the only instance, as far as I am aware, in which Roger Tichborne shows any want of knowledge relating to the property, or talks nonsense about it. It is utter nonsense to say there were debts on the property nearly twice its value, when the property was worth 15,000*l.* or 20,000*l.* a year. However, such is his statement, and he adds to it the rash and intemperate expression, that the debts were owing to what he calls his "blessed relatives." He continues—"Instead of that, going abroad as a cavalry officer, I receive 400*l.* for my pay; that, joint"—for joined—"with the 500*l.*, gives me nearly twice as much money as I can spen" (without a final "d") "in that country. I shall most probably exchange into the 10th Hussars or the 9th Lancers; they are the two last Regiments which went out. The only thing that keeps me from exchanging now is that I am waiting for my lieutenantancy, and that I want to see my family before going out of the

country. You misunderstood me when I spoke to you of giving Upton to Miss Doughty. If I ever did such a thing it would never be my intention of giving her at the same time the power of selling it or doing with it whatever she chose; that has never been my intention"—written with two "t's" between the first and second syllable instead of one—"But what I thought of doing was this. I took, as you most likely know, a great fancy for my Cousin, more even so that"—instead of "than"—"I ever felt or care to feel for any other young lady of her age. Well, as I know that she was very fond of the place, I thought that when I should go abroad I should give her leave to go there whenever she liked, and remain there as long as she chose. I never meant more than that." Then he goes on to another subject. "I perfectly understand what you told me is going on at Tichborne. I could not help laughing about what you said about the school room, there must be about as much study going on there as in my smoking-room at the top of your office." What he referred to there I can only conjecture. I suppose there was some gentleman in the house paying some attention to Miss Doughty, because he follows up his first observation with this—"I make no doubt of the truth of what you say of Miss Doughty being engaged to marry at this time next year. She will be, I have no doubt a fine looking and spirited girl which with her fortune will be I am certain a great attraction for many. I hope that she will make a choice which will make her happiness, that the wish which I form for her." Here we have an omission of the auxiliary verb "to be," which occurs in one or two instances in Roger's letters, but perpetually in the letters of the defendant. If it occurred only once in the letters of the defendant I should have attached no importance whatever to it. It is one of the things that might happen in the hurry of writing. There are few persons who, writing a hurried letter, with the pen travelling over the paper as fast as it can go, which would probably be the case in a letter of this length, do not make mistakes. It is only where you find the peculiar mistake or peculiar form of expression so constantly recurring, that you cannot ascribe it to carelessness, but to the settled habit of the writer, that you are warranted in setting it down as a characteristic peculiarity. He says, "I am not at all surprised at Lady Doughty working up with the Scotch lords."—I suppose the Master of Lovat was there.—"She is as you know very fond of Scotland, and secondly she has many relations there. I believe as you remember that she thinks of living about ten years after my uncle; it will be a very good place to put all those wonderful things which have been given to her by the settlement. I have received a short time ago a Deed or Bond (whatever it is) from Mr. Hopkins. I don't fancy at all to sign it; especially for that sum of money."

Now, as far as I can make out, what this bond had reference to was the cost of those voluminous deeds which were thought necessary for this settlement. I think Mr. Hopkins must have had to pay very heavily for extra luggage in taking over all those masses of parchment which had to be executed in order to carry this entail of the Doughty estates and the resettlement of them into execution. Oh! that the time would come or had come when conveyancing would be reduced to the limits within which common-sense ought to confine it. This certainly was not the case at that time; though I am rather in hopes there has been some reform in this respect since, and that deeds are not so tautologous, so voluminous, or so barbarous in their phraseology as they were formerly. He goes on:—"I don't fancy at all to sign it, especially for that sum of money. I never wanted the Lawyers, I don't want to pay Lawyers to pester the life out of me, my Father and Uncle could not do without them, well I think that it is quite fair for them to pay the Lawyers. I have a good mind to send it back with a bit of my mind written on it, and I am sure I should not care much what I said about it. My family could not do without them, well I think it quite fair for them to pay them, and not the one who they tied as much as they possibly could. I think that I have quite enough to pay those who I employ without paying those who annoy me"—This referred to Mr. Hopkins and the rest of the lawyers, I hope not including the learned conveyancer, whoever he was, who settled those deeds—"I never mentioned a word to Lady Doughty about Upton in any of my letters. I hope to have soon the pleasure of receiving another *very long letter* from you." And so on. "You ask me if I am tired of this place, I had quite enough of it at the end of a fortnight to judge now what it will be in winter. I don't know really what we shall do with ourselves in winter in this place." In that letter, you see, he corrects an impression that Gosford had on his mind as to what he intended to do with regard to Upton in favour of his cousin. As to this Mr. Gosford was asked whether Roger had not at one time a notion that he could actually give Upton to his cousin before he came into possession himself, and make the property absolutely hers; and Mr. Gosford answered, I cannot help thinking somewhat rashly, that such was his early notion. I cannot understand how it is consistent with the surrounding circumstances that such an idea could at any time have entered into the mind of Roger Tichborne: at all events it did not remain his impression. Mr. Gosford says he afterwards understood what his position was; and knew that his power to do anything for his cousin with reference to the Upton property would only arise on his coming into possession by the death of his uncle and father, in which case he meant to give her the privilege of residing at Upton until her marriage if she should be so disposed. A great

deal was made of this for the purpose of leading you to draw the inference that Roger Tichborne did not understand what his rights were with regard to the Doughty estate; an opinion which I must say I cannot in any way share.

Lady Doughty having discontinued her letters, he is vexed at her silence. The correspondence with her was a sort of link between him and his cousin, and it enabled him to know exactly what his aunt's sentiments were with reference to what so deeply interested him. He writes to her on the 18th of August. "My Dear Aunt I don't know to what cause I may attribute the long silence which you keep towards me: I don't know if I have said anything in my last *private* letter which has displeased you. If such be the case I am very sorry for it because it has never been my intention. If you would be kind enough to let me know what I have said which has offended you in my last letter I should be much obliged because I should be perhaps able to give some explanation. I remain, My Dear Aunt, till I have the pleasure of hearing from you Your very affectionate nephew, R. C. Tichborne." Then comes a letter from Lady Doughty in answer, dated August 21st, "I have received your few lines this morning & hasten to assure you that I have not the slightest cause of displeasure against you & have been much wishing to hear from you. The last *private* lines you wrote to me merely asked if I had any more reasons to give against your going to India. Now I had previously told you that the objections I saw were the age of your Father & Uncle & alas! very declining health of the latter & therefore that the time might not be far distant when you were called upon; but after having represented *this to you*, as the distance is now so shortened to India if you still persist in the wish why certainly you might gratify it & I have nothing more to say than that wherever you may go I shall ever pray and hope that God in his mercy may draw your Heart to him and your angel guardian watch over you. My silence has really only been caused by my thinking that your letters had better be addressed to your Father whilst he was here than to me, but ever be assured that I am always the same to you & that your letters are ever welcome, & that I am ready with my usual sincerity to answer any private confidence you may give me at any time." Then she says, "Thank Heavens your Father & we have gone on *most comfortably* & he is remarkably well, & Alfred a very fine boy, spirited & all we could wish to see him & now Adieu."

Then there is a letter which is somewhat remarkable, as tending to show that Roger Tichborne was not the ignorant, stupid creature that the counsel for the defendant has endeavoured to represent him. It shows he must have had some information upon historical subjects, as much perhaps as could be expected from a young man whose edu-

eation had not been all that could have been desired, and whose knowledge had not been developed as it might have been under more auspicious circumstances. It is a letter from Cahir, dated the 24th of September: "My Dear Aunt I had the pleasure of receiving your last letter some time ago. I was very sorry to learn by it that my uncle was not so well as you could wish. I hope that the change of air will do him good. My father came to see me at the beginning of this month; fortunately a room happen"—the termination of the past tense omitted—"to be vacant in the Barracks which was given him by the Colonel to live in. He was very much pleased with the place and the Regiment. What pleased him most was to see the Regiment going out for a field day, in full dress. I got leave to go and pass two days with him in Dublin. (You can imagine how much I enjoyed my stay in Dublin, coming from such a place as Cahir.) I have made of late several excursions."—You will remember one of the officers who was stationed there at the time told us he was intimate with him, that they were both fond of going to see ruins, and frequently made excursions in the neighbourhood to see the more ancient ruins to be found in the old parts of Ireland—"I have made of late several excursions—one among others to the old Castle at Cashel. That old Castle was formerly the residence of the Kings of Ireland: it is certainly one of the most curious ruin"—the singular for the plural—"which I have seen for a long time. Among other curiosities which are to be seen there, there is one of those old Irish towers which were build before Christianity"—Here is another instance in which he was wrong in the termination of the preterite of an irregular verb, and curiously enough the word "built" occurs in four instances, and in every one of them he has first written it right and then alters it and converts the word into "build," striking out the "t" and substituting the "d." The first impression is the correct one, and the correction he attempts makes him wrong.—"There is one of those old Irish towers which were build before Christianity. It has never been known to a certainty for what purpose they were build. The way they were build has made some persons think that they were build to worship the fire"—An Englishman would have written "to worship fire," a Frenchman says "*le feu*," therefore he puts in the article—"What has given rise to that opinion is that many towers of the same kind have been found in Persia where they used to worship the fire. The tower of Cashel is 130 feet high; the door as in all those buildings is between 12 and 16 feet from the ground. I saw there another object of curiosity, it is an idol which the Saxons use to worship"—the "d" making the past tense, omitted—"It is certainly one of the ugliest thing which I have seen. I am sure that the Egyptians among their various collections of gods had not one half so ugly as the one which I saw at Cashel Castle."

Let us pause here for a moment. Here is a man who is acquainted with the historical fact that fire was worshipped as the Persian divinity from the earliest time. We see also that he knows something about the Egyptian mythology; probably he was aware that the gods of that mythology were, as regarded their outward representation in the form of idols, in numerous instances a strange compound of beast and bird and man; of the animal form and the human. And he adverts to that with reference to the Saxon idol which he had seen in one of these old castles. "I saw a Saxon idol, a thing of monstrous and hideous form. I am sure that even the Egyptians with their strange Gods had nothing more ugly than this monstrous idol." Is that the letter of a man who is a mere idiot, and who has not the faintest trace of education or of ordinary common knowledge? Knowledge of this kind is matter fairly to be taken into account in determining the intellectual character of Roger, which by-and-by I shall invite you to consider. You should also look at the catalogue of his books and judge for yourselves as to whether he was the poor, sunken, miserable creature which the learned counsel, Dr. Kenealy, endeavoured to represent him before you. I go on with this letter: "I am in hopes of getting my lieutenancy soon. I passed an examination which fortunately for me was on nothing but on Regimental matters and on Courts Martial, still it took me much time to read through all the books, because they are so very dull that I use generally to go asleep when reading them. It was very lucky for me that I was not obliged to study Euclid, because I am certain that I never would have passed." In the next letter he speaks, not of Euclid merely, but of the six books of Euclid, some of which he had studied before, and as to which he received his certificate which enabled him to enter the army—"You will know my promotion as soon as I will, by seeing my name in the newspaper. The inspections will be at the beginning of next month: we expect the General about that time from Limerick."

Now comes a second inspection, in which the circumstances spoken of by the defendant may possibly have happened: it could not have happened at the former one in May, referred to in the letter I have already read to you. Then there is a letter from Lady Doughty dated 25th September, which I only advert to because it refers to the election at Poole at which Mr. Danby Seymour had just succeeded in getting elected. It is written at Upton, where she was staying: "I send you this paper to tell you of the successful termination of this very hardly contested election & I am writing this in Poole where we came to witness Mr. Seymour & his Brother being taken in an open Carriage, band playing, flags flying, &c in an immense long Procession round Poole, Parkistone," and so forth. That letter being written to him at Cahir, at the time of that election, shows very

plainly that he was not at Poole at that election, and it could not have been on that occasion, at all events, that any deputation went out to invite him to stand. Then he writes to congratulate Mr. Seymour on his success at Poole. He says, "I only learned it few days ago by a letter which I received from Lady Doughty. I am in hopes of getting my promotion to the rank of Lieutenant in the course of a few days, you might even so know it by this time as it was so far as I could ascertain to appear in tomorrow Tuesday's Gazette." That is the 30th September. "I have passed some time ago the examination which was required of me before I could be recommended for promotion, that examination was luckily,"—the "c" being left out—"for me all on Regimental matters, otherwise if I had been obliged to pass an examination on the six books of Euclid I am afraid that I should have been refused."

I just call attention to that passage, because a question of whether he knew with what subject, or with what department of literature or science the work of Euclid was connected, was put to the defendant, and he was obliged to admit that the name of Euclid was wholly unknown to him. I think it is impossible to go through this correspondence, and the facts which I have brought under your attention with regard to the mathematical studies of Roger Tichborne, without seeing that Roger Tichborne had studied, and endeavoured to master, at all events some portions of the great work of Euclid on geometrical mathematics, and that he was quite familiar with the name, and, what is more, knew that the geometry of Euclid was contained in six books, which a person not conversant with Euclid would certainly not have been likely to know. He says, "If I had had to be examined in the six books of Euclid I do not expect I should have been able to pass." This clearly shows he knew what the work was about, and though it may be that, his aptitude for mathematics being comparatively small, the propositions, though mastered for the time, may have left no permanent impression on his mind, yet it is difficult to suppose he could have forgotten the name of Euclid, or the subject matter on which that great master wrote.

On the 7th of October he writes thus with reference to his father in a letter to Mr. Vincent Gosford:—"My Father came to see me at the beginning of last month: he remained three days with me; he was much pleased with the place and the regiment. What pleased him much was to see the regiment going out for a field day in full dress. I was allowed to go and pass two days with him in Dublin. I enjoyed my stay there very much, especially coming from such a place as Cahir. I am regularly tired of this place. It was mentioned some time ago at mess that they were going to reduce the army in Ireland, that five cavalry regiments were to be send over to England in the spring. I wish they did it because we would be among the

number. My Father admired the place very much, but I am sure that if he was obliged to remain in it a fortnight or three weeks he would have quite enough of the place. Nature has done wonders for the country, but nothing for the inhabitants. They are certainly the greatest blockheaded set of people—under the sun.” Then he says, “I don’t know what Mr. Hopkins must think at not receiving any letters from me about that Deed which he send me to sign. I have not done it, and I don’t think that I shall do it, because I don’t think it fair at all.”

Now, a question will arise by-and-by, with reference to the evidence of a witness who has sworn very positively on the part of the defence, whether when Mr. Tichborne visited his son, and stayed a few days with him in the barracks at Cahir, the son accompanied him on his going back to Dublin on his return to England. The son in the letter I have been reading says that he went with his father. What the father says about it is this. He writes to his wife from Spitchley Park, near Worcester, on the 17th of September. “I must now continue an account of my proceedings after I quitted Cahir which I did on Monday the 9th, with dear Roger, and we went to Dublin together, as his Colonel had very kindly given him leave of absence for three days to be with me, and this made me enjoy my visit to Dublin very much; and as soon as we arrived there we met Charles de Brimont who is a great friend of Roger’s, and this made it very pleasant for us all. I did not forget to buy you a very handsome poplin gown, and gold colour, as you wished, and I think when it is made up it will be very pretty. We must manage as well as we can to pass it when we get to Boulogne. William thinks he can contrive it very well by wrapping it round him. I hope we may succeed as I flatter myself you will be pleased with it. I parted with our dear Boy on the evening of Wednesday the 11th and he returned to his quarters at Cahir, and the next morning I embarked for England. And as I had received so many kind invitations from my good friend Mr. Berkley to pay him a visit, I took this opportunity, as I passed so near Spitchley, of coming to pass a few days with them; I arrived here last Friday, and nothing can exceed the kind and hospitable manner in which I have been received by the family.” These letters show beyond all doubt that Roger did in fact accompany his father to Dublin.

Lady Doughty writes to him on the 14th October. “I have been looking anxiously every Gazette to see if you have your Lieutenancy—am I to understand by your *private* that your going to India is a fixed affair & that your Lieut^y will be in some Reg^t in India! pray write & tell me, your secret is safe with me. It is *useless repeating objections* I have *so often* given you at length, if *determined* I can say no more, however I may have regretted it—than wish your

happiness & that God will preserve you from falling unprepared into his hands & *for that* I will ever pray & get Prayers. You say ‘ you hope to be permitted once more to see your Uncle Cousin & myself before you go’—Of course, you will, however painful such a parting may be; however you would not see your Cousin this Winter, as we are making up our minds to let her go again to a Convent for masters & finishing studies during this Winter, & bring her home after Easter when she will be 17 & *School Studies ended* & she will go out with us; it is a sacrifice on our part but we feel convinced however that it will be much for her benefit, tho’ a dreary winter to us.” It has been suggested, though it seems hardly worth notice, that this was done in order to send Miss Doughty out of Roger’s way because Lady Doughty had some suspicion of Roger’s intentions towards her daughter. I can find nothing which gives the slightest colour to such a suggestion. On the 18th October he writes to Lady Doughty, “ My Dear Aunt. I reply to your last letter which I had the pleasure of receiving on the 16th. I have but little more to say in writing. I shall receive my Lientenancy in my present Regiment in all probability in the course of a very short time. My intention is to exchange into a Cavalry Regiment in India towards the end of winter or the beginning of Spring the latest. I am in hopes of obtaining some leave during the winter to be able to go and see my Family. I shall see you I hope during my stay in England. Rest assured that anything which you have told me will remain buried in my soul and that not a single person will hear a word of it from me. I was sorry to see a passage in your letter in which you expressed yourself as having done or said something which had pushed me to that plan of going abroad. You have never said or done anything to which I might have been in the least degree vexed. You have always been very kind to me ever since I know you, for which kindness I feel very thankful and will always show as much gratitude as I possibly can.” Writing to Mr. Gosford, he says: “ I was very much surprised at some of the news which she gave me, especially at one among others—it is that Miss Doughty is to go back to Convent for the winter. It appears to me very strange that she should go back to school after having left it for more than a year. It looks to me very much as if Lady Doughty and the governess could not agree well together. I am in great hopes of obtaining some leave at the beginning of the year. I hope very much to be able to spend some time at Tichborne during my stay in England. I shall be very happy to see my family again, and to be able to have some talk with you on several subjects which would be difficult for me to explain on paper.”

Now that passage is only in accordance with what I have read before, as tending to show the unreserved confidence with which

Roger Tichborne treated Mr. Vincent Gosford. There is no subject, however secret—I had almost said however sacred—his relation to his father, his mother, his uncle, his aunt, and the to him all-engrossing one of his cousin—on which he does not communicate in the most unlimited and unreserved confidence with Mr. Gosford—a fact, as it strikes me, very material to be borne in mind, by reason of the conduct adopted by the defendant towards Mr. Gosford when he first came over to this country from Australia. These passages show, as I have said, that there was nothing which Roger Tichborne had in his mind or heart which he hesitated to communicate in the confidence of an unreserved friendship to Mr. Gosford. It is very different as regards the letters to his father, his mother, and his aunt. He does not half go into things with them as he does with Mr. Gosford.

Then Lady Doughty writes to him on the 21st of November, from Upton, about her daughter: “We sent our dear Child to Newhall & she is settled to her studies & exceedingly pleased with that fine old place & all its inhabitants & her last few months of study will pass quickly & agreeably to her, but *we* of course miss her much;” and so forth. “I am sorry you could not go to the Stricklands but I can understand you could not get leave. Walter wished much to see you.” On the 30th of December, on the eve of the new year, she writes from Upton, and she says, “My dearest Roger, This letter is to convey to you your Uncle’s & my affect^{ate} wishes for a happy new year & birthday & *many many* returns of the same & that as each year advances it may bring the reflexion with it, that we shall not live in this world *for ever*, but that we ought sometimes to prepare for the future which will fix our ETERNAL DESTINY: Now old dear, thanks for your last letter, we had been looking for it some time & expecting you would be able to tell us what day we were to expect to have the pleasure of seeing you, the contents therefore was a disappointment: pray write again very soon and tell us when you are likely to come. Should certainly like you once more to see this dear place where we are now, for really I had no idea how much more comfortable & dry a house it is than Tichborne till the experience of this Winter *not* than *I* dont wish *you* to like it so well as Tichborne, but I should have pleasure in seeing you here again, where I knew and loved you as a little boy.” Then there is other matter not of importance. The letter is only interesting as showing, as I think all these letters do, the very warm and sincere and affectionate attachment of this lady to Roger Tichborne. It seems impossible to suppose that the writer can have entertained a suspicion of Roger’s intentions towards her daughter, and could have sent the latter back to school to keep her out of his way.

Gentlemen, I have now arrived at the close of the correspondence

of the year 1850, and it will be useless to begin the correspondence of the ensuing year to-day; we will therefore now adjourn.

ONE HUNDRED AND SEVENTY-FIRST DAY.

Monday, February 2, 1874.

THE LORD CHIEF JUSTICE: Gentlemen of the Jury, on Friday last we had brought the history of Roger Tichborne down to the end of the year 1850. There was one date which I did not give you, which, by-the-bye, may perhaps, not be unimportant, and that is the date of his promotion. He was promoted to his lieutenancy on the 22nd November, 1850. I am not at all sure, and I cannot make out into what troop he was promoted. He was undoubtedly originally attached, as I have before told you, to the troop of Captain Jocelyn. When the regiment was removed from Dublin to Cahir, Captain Jocelyn's troop was sent away on detachment to Limerick, and Roger Tichborne not having finished his drills, was kept at headquarters, and was attached, I suppose, to another troop, and in that troop got his lieutenancy.

By the JURY: Had he to pass an examination?

THE LORD CHIEF JUSTICE: He had to pass an examination as we have seen, not, as he anticipated, in mathematics and things of that sort, but, simply on regimental matters. You will recollect that in one of the letters I read you on Friday, he congratulates himself that he had not been obliged to pass another general examination, and says if he had been examined in the six books of Euclid, he is sure he should not have passed. The examination was only on regimental matters, and I am obliged to you for asking the question, because it reminds me what I had forgotten to state—really this case is involved in such a multiplicity of facts that one cannot carry them all in one's mind—that having to pass an examination in regimental matters only, he passed it where the head-quarters of the regiment were, namely, at Cahir, and did not go to Dublin. That is one of the points where the military knowledge of the defendant is at fault, because he says he went to Dublin to be examined, while we know from Colonel Jocelyn that the examination took place at Cahir. In January, 1851, we find Roger at Cahir; he got leave shortly afterwards, but at the commencement of the year he was with the regiment, and one of the witnesses called for the defence, Thomas Muston, who had been his servant up to that time, having said that he gave his master notice to quit, it may be right just to call attention, in passing, to

a letter written by Roger Tichborne to Lady Doughty, from Cahir, of the 4th January, 1851, which seems to show the contrary: "I am not at all pleased with Tom"—that is Muston, the servant—"he does not pay any attention about cleaning my things properly. He is quite a different servant now to what he was when he came from your house. I am almost certain that he must have fallen into bad company and the sooner he gets out of it the better. I told him this afternoon that it was not my intention to keep him any longer"—"intention" spelt with two "t's"—"I told him that I should try to place him. I should feel obliged if you know of a place vacant to let me know as soon possible. I shall give him myself a certificate because I don't think that he is so much to blame, because I think that it is one of the most difficult thing for a young man of his age, placed as he is in his situation without any experience of the world not to be misled. I have no doubt that if he gets in a good place he will come to be in a short time a good servant." This is only important as showing that the man is not right when he says he gave his master warning. Well, Roger gets leave of absence on the 15th January, and it appears to have been for a fortnight. Sir Edward and Lady Doughty were staying at Upton, which was still theirs, as well as Tichborne, and at which they always kept up an establishment. It will be a question by-and-by how often and at what time Roger Tichborne was at Upton; and it appears that on this leave of absence, his principal purpose being to go to see his mother in Paris, he took Upton for a day or two on his way to Paris, and then afterwards, on his return called there again, and paid them another visit, of course only a short one, as the whole leave was only for a fortnight.

On the 31st of January, the leave having commenced on the 15th, he is back again at Cahir. Therefore he could only have been a very short time at Upton either going or coming back. On his second visit to Upton he appears to have had some confidential conversation with Lady Doughty on the subject uppermost in his mind; that is, about his cousin. When he gets back to barracks on the 31st of January, he writes her a letter which evidently has reference to some such conversation. "My Dear Aunt I was sorry that we had not time on the morning of my departure to have some conversation on subjects which might have proved themselves useful to me. You asked me a question; if you remember I had not time to answer so plainly as I could have wished for want of time."—At this time we know he had conceived a notion, not believing in the possibility of his affection for his cousin being returned by her, of exchanging from his own regiment into a regiment in India, or one about to go there.—"You asked me that if I formed an affection for some lady it would prevent me from going to India." Whether

Lady Doughty at this time did wish these young people to marry or contemplated such a possibility (though it was not, I think, a marriage which she in her heart desired), I can hardly doubt that she either sincerely, or insincerely, used this attachment, as far as she could, as a motive to induce him to desist from his plan of going to India.—“ You asked me that if I formed an affection for some lady it would prevent me from going to India. I would most as certainly”—there is some confusion in the composition there—“ and at the same time leave the army at once. The army is very good for a young man like myself who has not a home in the wide world to bless himself with. But it appears to me almost impossible that a young person could form an attachment for me, that I can scarcely believe it. I cannot at the same time but wish most sincerely that it could be for many reasons. It would I have no doubt give me a brighter aspect of life (for which I have so very little at present) secondly it would make me lead a quiet and steady life and give me a happy home to live in which is most undoubtedly one of the greatest blessings a person can enjoy in this world. But it is unfortunately too much happiness for me, so that I had much better not think about it because it makes me unhappy. I shall do much better to go to India for a certain number of years and come back to be able to see my Brother well settled in life and retire afterwards quietly into the country far from the world and do as much good to my relatives as I possibly can; that I have explained to you last Tuesday night in your room (which conversation I hope you have not forgotten). If you have a moment to spare to answer this letter it will give me much pleasure to receive one in answer to mine. I hope that you know enough of my character to know that anything which you may say in your letter to me is quite safe. Nobody in this world has ever known me to repeat a single word which you have told me by word of mouth or by writing and you know moreover that I have never taken any offence to whatever you have told me. I have not been able yet to write about my exchange for want of time but I hope to be able to do it soon; it may be for me I dare say a bad thing to do, but if you remember what I have told you about my Brother I may be perhaps justified.”

Now, at this time, having the prospect of going to India before him, he moves again in the matter of his will, and he writes to Mr. Slaughter, whom he had communicated with before on the subject, about it. “ My Dear Sir You will remember, I dare say, that some time ago I told you of my intention of making some arrangements in regard to my property. Before I tell you what these intentions are, I wish to know from you how I am situated. If I understand I am entitled to the whole of the Doughty property and estate after paying out of them the different sums with which

they were charged in the last settlement, I will thank you therefore to let me know clearly what amount of property I should have a right to dispose of by will." That letter is dated 1st of February, 1851, and is too well written to be his own; the language is that of Mr. Gosford, to whom when at Upton, on his recent visit, he had communicated his desire to know how he stood, and what were his rights and powers with reference to the disposition of the property either by deed or will; and Mr. Gosford, although he knew and understood the position of things, very properly said: "I would rather you asked Mr. Slaughter who knows all about it; he is one of the solicitors who assisted in drawing up those settlements; you had better apply to him,"—not taking upon himself the responsibility of advising; and then Mr. Gosford went on to dictate this letter, which as soon as he had got back Roger sat down and wrote to Mr. Slaughter. On the 4th of February, Roger writes to Mr. Gosford and tells him he had arrived at Cahir on Thursday, the 30th; and further says, "One of my first occupations on arriving at Cahir was to write to Mr. Slaughter about what I told you I intended to do the last time I saw you at Upton. I wrote him the letter which I wrote in my room before you. I feel rather anxious to settle that business as soon as possible. I hope that Mr. Slaughter won't wait long to write to me." Next day he gets a letter from Mr. Slaughter, in which Mr. Slaughter explains to him, in the clearest and most intelligible form, what his rights were with respect to this property.

Gentlemen, a question will arise by-and-by, and it is one of the most important questions in this cause, namely, whether the defendant has exhibited a knowledge of the disposition of the property made by Roger, or a complete and total ignorance respecting it. It has been sought to explain the ignorance which he has manifested by saying, "Why, Roger himself never understood what he was about either in the settlement to which he was a party or in the will which he afterwards signed; he was the mere creature and instrument of other people." No doubt if that was the case, and Roger did not thoroughly understand what he was doing, the answer is a good one. But if, on the other hand, you are satisfied that Roger did thoroughly understand what he was doing, then this would be a circumstance in the case which would press, as it strikes me, very heavily on the defendant. It all turns on whether Roger did understand the testamentary provisions he was making, the nature and extent of the property, and what he was doing by his will. It is not necessary, I think, to read the whole letter to you. Mr. Slaughter points out to him that the Doughty estate by the settlement executed in the previous May, was made liable to certain charges. Those charges I have already told you of: there was the one to Miss Doughty of

8,000*l.*; there was the 10,000*l.* which Sir Edward Doughty is empowered by the settlement of 1850 to charge on the estate; and then there is the 100,000*l.* to be raised for liberating the Tichborne estates from the incumbrances already existing and for increasing those estates; and then he says—for this is shortly what it comes to—“Subject to this sum of 118,000*l.* and to certain annuities still payable under the will of Miss Doughty, amounting to about 600*l.* per annum, and to the contingency of Lady Doughty surviving her husband and taking her jointure, the whole of the Doughty estates in the counties of Middlesex, Lincoln, Buckingham, and Surrey, are limited to *you in fee*, that is to say, are *at your own absolute disposal*. And the Upton property is also in like manner limited to you, absolutely, subject to a mortgage debt of 13,700*l.* charged thereon in favour of Captain Gardnor. Although you do not come into possession of the several estates until after the deaths of Sir Edward Doughty and Mr. Tichborne, it is now competent to you to dispose by will of your reversion in these estates in any way you may think proper.” These things having been thoroughly explained to him, he is told what the incumbrance upon the Tichborne estate, which is to be cleared off, consists of, which it is unnecessary to read again, and then Slaughter tells him that “the residue of the 100,000*l.*, viz., 36,426*l.*, is directed to be laid out in the purchase of lands, &c., to be settled to the same uses as those declared of the several properties released from the charges thereon by the application of this money.” Then he tells him, “Under this arrangement, in the event of your own and your brother’s death without leaving male issue, and of your father having no other son, the absolute reversion of these properties and of the 100,000*l.* applicable in reference to them would devolve to yourself, and as such would be disposable by will.” This very explicit and intelligible account of the matter having been given him, the thing is again allowed to sleep for a certain time, to be resumed at a later period.

Gentlemen, you have remarked the reference to a conversation between Lady Doughty and Roger when last at Upton in the letter written on his return to his regiment. Lady Doughty, in answer, writes him a remarkable letter. It shows how her mind vacillated to and fro, sometimes feeling disposed to allow these young people to marry, and at other times setting herself strongly against it; yet still not positively saying it should not be, and using his affection for her daughter as a sort of lever to move him and prevent his going to India, and to keep him in the right path as to his habits: “My dearest Roger,—I have much wished for a quiet moment to sit down & answer your private letter which you so kindly invite me to answer openly & sincerely by the assurance which indeed I have well experienced that you have never taken offence at anything I

have said or written to you, for this I thank you, & again assure you that it is from the warmest affection & sincerest friendship I have spoken to you as I have done. I cannot see you throwing life away & running heedlessly perhaps to eternal misery without the strongest efforts to rouse you to see your real position & the blessings God would shower down on you if you would not throw them away. Examine well your wish to go to India & you will see it originally arose from the unfortunate circumstances in which you were placed in early life & therefore that India being so very remote had to your imagination dreams of happiness. This was very natural, & without a friend your thoughts became concentrated & thrown back upon yourself & hence imperceptibly you acquired intense reserve in which also you placed happiness & afterwards you flew to the reading bad books to finish the knowledge of life which prematurely you were acquiring before your judgment was formed. This familiarising your *mind* with *vice* weakened by degrees your Religious principles & when Passions began principles were too weakened to stand the test. Now all this has given you a false idea of life. You think abstractedly that you do not love Vice, that Honour without religion is sufficient, but you deceive yourself, you know what your duty is *too well* to feel happy in this state, hence dear Roger in reality tho' despising the Vice yet you fly to drink to drown your thoughts, instead of to your Creator who in His power could support you, & you delude yourself into thinking you do not feel drink when alas it is ageing you visibly & must in time impair every noble feeling of head & heart. Your present isolated position most deeply I regret because again thrown out of Society this inclination is fostered from not having other sensible amusements & varied society, but this cannot last many months; would it not even be possible to exchange to another Regiment without going to India where for years if not for ever you throw yourself from friends & the possibility of better motives guiding your actions." Next comes a matter relating to the attachment. "I did certainly put a question to you on that at least to me most unhappy morning when we parted arising from our conversation the night before & wishing to ascertain if any thoughts of a future home could arrest your headlong course, but in return to your question"—he had evidently put some question to her relative to her daughter—"I ask you to reflect & think if a Parent could be justified (even supposing the almost insurmountable objection of such near relationship could be set aside) in encouraging the affection of a person to their child who lives in determined opposition to the practice of the Religion they know to be true, who defies Almighty God even in His holy Temple by not praying, or even reading other works, at the same time that they determinedly shut their hearts & ears against any inspiration of Grace and drown

thoughts of the future *in drink* & offend Almighty God by profane language, &c. &c.”—All this you will find presently he indignantly denies.—“Could a young innocent being full of religious feeling be encouraged to risk her happiness in this life & possibly in the next by being united to such a man? No a parent would be a traitor to their child who could give such encouragement. Still dear Roger I am fully aware these are you would say”—now she is putting his argument—“you would say ‘bad habits but not unconquerable if I had the motive of strong attachment to induce me to try and lead a steady life;’ very true it would be a very strong motive, but without the higher one of endeavouring to serve God, the other motives *alone* would probably not last after you had attained your object. Yet I do most firmly believe that if you could once give your entire confidence & go to *Confession* to one who beside piety had experience and good sense to be guide & friend to you, you would feel a calm of soul & peace of mind which would then enable you to judge of your real dispositions & views for the future. I do not expect & never did that the control and monotony of the Military life in time of peace would long suit you, but it is present employment, & ere many years pass it is in the course of nature you must possess a fine fortune & may find daily amusement as well as employment in it. If you could make up your mind to marry a sensible affec^{te} person you would find the calm & true happiness of a *home*, the habits and duties of which if undertaken from *good motives* draws down the blessings of God to support Trials which more or less in this world must occur, but there is a *happiness* in fulfilling ones duties which no exciting but criminal pleasure can give—Alas! you have seen misery which has disgusted you of the *state*”—she is referring to his own home and his own father and mother—“but remember it was always a *mal assorti* marriage, possibly not entered into with *mutual* affection, & hence it required both Religion and temper to support, but you have already seen that there *are* those who might be in every way suited & inclined to attach themselves to you”—I imagine she is referring here to her daughter; no one else is suggested to whom it could apply—“this surprises you, it does not me. However much you may stifle it a person may see that naturally you have not only strong good sense & judgment but a heart & character particularly calculated to ensure the devoted attachment of a *virtuous* woman (& with such only would you ever be happy) but you must give proof that you could permanently lay aside bad habits; then indeed marriage would support & would be a preservative from vice & give peace & happiness. Yet the affections of the person to whom you allude is a sacred subject to me, she is far too young even to be supposed to have formed an *attachment* & the obstacles are far *too strong* for me to encourage you to look beyond

the affection which a Brother and Sister might have & which if there never was a *thought beyond* would be a happiness to both. No, most earnestly do I entreat you to endeavour to see good English society & judge fully of England & your future position before you throw yourself for life possibly out of it. If opposed in one idea you may see some person hereafter in reality more suited to you, & that this may be the case I earnestly pray—have patience now with this long but candid letter”—It is a long letter: whether it is a candid one is a different question—“pray write quickly to me & tell me sincerely how far you will at least reflect on what I have said & be assured that no one could feel more deeply interested or more devotedly your friend than your attached aunt.” I must say, if I had been in Roger’s place I should have had, as, indeed, I have had, a difficulty (and I have read that letter more than once) to make out what she means. Whether she meant to tell him that if he reformed his habits, and left off drinking, she would consent to his union with her daughter; or whether she meant him to understand that he must give her up and seek happiness and union in some other quarter, I am sure I do not know, and it is very difficult to say. Roger writes in answer: “I have not yet taken any steps toward making my exchange with a Cavalry Regiment in India. I shall wait to take my decisive step till the latter part of this month or the first week in March. The Regiment in which I am in at present stands a good chance of going abroad this spring. But it is next to impossible to give any credit to the rumour which is going on at present, but in all cases I shall wait to see where the regiment is going on leaving this place. You make me a remark which is very right in some way. You ask me to see as much of good English society as I possibly can before (as you say) throwing away my life, I thought that I had answered that question when I was last at Upton. I have seen as much good society when I was in Dublin as I could; not that I care much about it myself, but to be able to say that I have not left the world without knowing it, and that I have seen as much of it as I was able. I have just read your letter over and I cannot help remarking a passage which I saw in it about my wish to go to India. You have perhaps forgotten that my first wish to get into the army was to get into the East India Company’s service. My Father objecting to it and my being under age prevented me from going and obliged to keep quiet until I was able to go. I then entered the English service with the intention of learning my duty and then exchanging into a Cavalry Regiment abroad—So you see that that idea is not new, that I have thought long about it. But at the same time I shall be sorry to leave my present Regiment because I don’t think that I shall be able to find a Regiment with such a selection of Gentlemen as there are in this one.” Well, you know

they used to play tricks upon him—those practical jokes which one regrets to find existed to such an extent, and which, I hope, exist no longer; but he took it goodnaturedly, and all the officers, though they did play him tricks, were fond of him, and looked upon him as an amiable, inoffensive young man, and he seems to have returned the feeling very kindly, and says, “I don’t think that I shall be able to find a Regiment with such a selection of gentlemen as there are in this one. I don’t think it at all easy. But in all cases My Dear Aunt it matters very little if I go or remain. In my dispositions and manner it is quite impossible for me to think of marrying and settling in life.” Now what could he possibly mean by that? We know perfectly well if there was a feeling that animated his whole being, it was the passion he had conceived for his cousin, and his wish to marry her. I suppose it was intended as an answer to the suggestion of Lady Doughty. It may be taken either in this way, “You will not tell me that I am at liberty to pay attention to my cousin in the expectation of afterwards marrying her; my answer to you is, I do not want it; I do not intend to marry,”—more or less a foolish sort of bravado; or he may have intended to say, “You advise me to find a wife somewhere else and to marry, but my answer is, if I am to look elsewhere I do not want to marry”—He continues, “It is quite impossible for me to think of marrying and settling in life. I might meet persons in the world for whom I should wish to form some kind of attachment, but no Lady would form one for me. But supposing even so that it might be possible, I never would on any account whatever be the cause of a person regretting afterwards that attachment which she could have formed for me, and by those means having her existence made unhappy on my account, so My Dear Aunt I’ll sooner be anything which you like to call me but it will never be said that I have been the cause in any way of a person being unhappy on my account. I know well enough that I am very liable to form some attachments in the world but I keep away from it because my intention being of not marrying, it is much better for me that I should not form any. Marrying is certainly one of the greatest blessings of God in this world, but it is so very seldom that two persons agree well together—a man may be most anxious to make another’s happiness, and she may not care for him. Marriage is (if I may use the word) quite a Lottery”—which he spells with one “t.”—“You ask me to go to Confession to a Priest who would be a friend and guide to me. I don’t know the Priests in this place, they are certainly very respectable persons but I doubt if they have enough knowledge of the world to be a young man’s guide, besides that I have rather enough of the Irish way of Confessing without trying it again. I have I believe said in my two last letters as also in the conversation which I had with you at Upton as much about

my plans as I possibly could. I have said what I intended to do for my Brother. I don't think that you may think me very reserved after what I have said in this letter. But I have forgotten to mention something—it is that I am quite of your opinion, for parents would be to blame if they encouraged an affection between a young person and a man who drinks and swears and has not as much Religion as would be wished undoubtedly repent of it afterwards”—there is some confusion in the composition there—“But before I conclude I must say that I don't drink so much as you think, and even so I don't drink so much now as I use to do formerly and, besides that, in the moral point of view I am very steady, it is perhaps surprising but it is the truth; and moreover I don't read profane Books in Chapel”—this is in answer to what she had said—“and moreover I never frequent loose Society”—“loose” spelt “lose”—“I know well enough that I am more than anything else of a shame to my Religion but I have always stood by what I believe to be the truth, and backed it against any body. Now My Dear Aunt I must conclude by assuring you that I shall always find myself happy when I may be of any use to my family and in some future times should you require my services I should be but too happy to do anything to oblige you because you have always been kind to me and in some years hence when I shall be most likely be behind the seas”—he writes “behond” for “beyond”—“If I should hear that I could do something to oblige your Daughter I should find myself but too happy to do it in any way which I had in my power—I must now finish by assuring you that I am fond of my profession—I don't wish to leave it I am young and wish to see as much of Military life as I can, and of active service during the time that I intend to spend in the Army—If this Regiment was ordered to go abroad as the 10th Hussars no body would be allowed to sell or exchange but obliged to go out with it. I don't suppose that you will hear from me in this Private way for some time because I have said I believe all what I could possibly say.”

Business mingles itself with romance, and now comes a letter to Mr. Hopkins of the 2nd of March: “I am sorry at not having been able to answer your last letter sooner, I have had of late so much to do that I had but little time left me to think about serious matters. I am very sorry that I had the misfortune to lose the letter which you wrote me about a month ago as that prevents me from understanding very clearly if the 1,250*l.* which you mention in your last letter is the money which has been borrowed to purchase my Lieutenancy or for some other purposes. I should feel much obliged if you had the kindness to write to give me a full explanation about it I am very sorry to give you so much trouble about it. I fully intended to call on you when I passed last through London but un-

fortunately I had no time I was very anxious to see you to be able to talk about all that business, a person can do so much more by word of mouth than by writing." Gentlemen, I read these letters on matters of business, not as having a direct bearing on the main question in the cause, but because it is desirable that you should be able to form a judgment for yourselves how far Roger was really a man of business or not. On the 12th he writes again to Mr. Gosford, and in that letter he says, "I have received letters from my parents mentioning that they had seen or heard some where or other that my regiment was likely to go to India, and telling me moreover that they never would give their consent to my going abroad. I had the very same objections made to me when I first wished to enter the army. My Mother is telling me that she would die of sorrow if I am going. That is all nonsense; my Father & Mother have never been so happy and enjoyed such a peace of mind as they have done since I have left their house. But I don't intend at the same time saying anything about it till the moment for me to exchange comes. I have made up my mind to it, and I am only waiting for an opportunity, which is I am sorry to say rather long to come." He refers there to his father and mother having become more at peace and happier since he left, but we must not from that imply that he purposely did anything to aggravate their domestic discord. What I understand the meaning to be is simply this, that inasmuch as his father saw what was necessary for his proper training and bringing up, and the mother constantly from her ill-guided, ill-judging mind, sought to have a different course followed, he was a frequent cause of discord between them, which of course would no longer exist when he was removed beyond their domestic sphere. That is what I understand him to mean. One thing is plain from his letters, and from every act of his life which at all formed the subject of the father and mother's wishes, namely that it was his firm determination to act for himself, according to his own view of what was best for himself. Other young men would have naturally said at that age, "If my father and mother are so anxious that I should not go to India, I will not do so," or at all events, would have felt the greatest possible indisposition to go counter to them. At least they would have done what they could to mitigate any aversion their parents had to the course which it was proposed to pursue. Not so with Roger; with a most determined, inflexible will of his own, neither father nor mother, nor any one else had the slightest influence upon him in forming his resolution, still less in altering his resolution when once it had been formed.

At this time he again puts himself in communication with Mr. Slaughter, and says, "I must apologize for having been so long in answering your last letter. It has taken me, I must say, much

longer than I thought at first to make up ultimately my mind"— "Ultimately" he spells as he does "fortunately," omitting the "e"— "I am in hopes of going before long to India for some years, but before going I feel anxious to make some settlements about the Doughty property. I wish to make those settlements before going, because it is quite impossible to say what may happen to myself in that part of the world in the course of a few years. As I am at a loss to know how to proceed to make those settlements, I should feel much obliged if you had the kindness to let me know at your earliest convenience the most advisable way for me how to proceed to make those settlements. I wish this business to be kept as private and secret as possible, and that nobody whatever should hear a word about it."

This brings us to the month of April. On the 8th of April the troop to which he had at this time become attached, namely the A troop, under the command of Captain Polhill-Turner, was ordered to proceed on detachment to Clonmel. As I have already said, it does not appear clearly to what troop, on the troop to which he originally belonged, namely Captain Jocelyn's, being sent to Limerick, Roger became attached, but he was transferred to Captain Polhill-Turner's troop before that troop went to Clonmel. I mention this, because in the cross-examination of the defendant, he is asked as to the troop he first went into, and the troop to which he was afterwards attached, and in which he got his lieutenancy, and so on: I therefore call attention, in passing, to the facts with reference to this matter. He writes from Clonmel on the 12th of April to Mr. Gosford. It seems that Mr. James Tichborne, the father, had written to Mr. Gosford or to Roger, suggesting that Roger should endeavour to get married to some young lady whom Mr. Tichborne mentioned. According to Mr. Gosford, who knew the young lady who was referred to, Mr. Tichborne knew very little of her, and Roger still less. It was merely a passing suggestion. Roger says: "I was, as you may fancy, wonderfully surprised at my Father's letter. I read it, I am sure, several times over to be sure that I was not deceiving myself. I cannot think what put such an idea into his head. I don't know if he knows the person, in fact it seems to me very strange altogether. I suppose that you may perhaps hear something more about it, if you do I should feel much obliged if you had the kindness to let me know. You may be certain that nobody will ever hear a word from me." Then he says, "I have received not long ago a letter from Mr. Slaughter in answer to mine, I see quite plain by what he says that it will be a long business to settle the Doughty property as I wish, the present deeds which I will in all probability be obliged to sign, almost frighten me out of it altogether. I also received, as a matter of course, at the same time as yours, a

letter from Mr. Hopkins. I have not had time yet to answer it, but I intend doing so as soon as I can."

On the 17th of April he writes to Mr. Gosford to say he has at last found an officer in a light cavalry regiment in India who is willing to exchange into one at home; "I shall write to-morrow to get what information I want about it, then if I like it I shall send in my papers at once for exchanging. I expect a great blow-up from my family, but in all cases it won't be worse than the one I had to stand when I first said that I wished to enter the army." A disturbance of this sort does not seem to make any deep impression on his mind. He next writes to his aunt on the 20th, "Not receiving any letter from you in answer to mine I suppose that your time is so much taken up as not to allow you to write letters. I have been to-day busy all the afternoon putting all my papers to right, and reading most of my old letters. I found amongst my papers a scrap of paper which you had written me with a pencil. I had at first some difficulties in making it out but at last I was able to make it out so well that I took a copy of it. It reminds me of gone-by days which are never to come back again. It gives me pleasure to think about those days when I find myself quite alone in my room, I shall keep that paper with the copy. I have no doubt my dear Aunt, that you must be rather tired of my private letters, it is not my intention to trouble you any more with them. I have all the letters which you wrote me since I left Tichborne. I read them sometimes over with pleasure. It may in some way surprize you but it is nevertheless the fact." She writes to him in answer on the 24th: the first part of the letter is mere gossip, and I pass it by; but then comes this passage: "Now dearest Roger, I see perfectly by your *private* letter the depressed lonely feel you had when you wrote, I wish you had enclosed me the bit of my writing to which you referred—I never can forget the many conversations we have had and believe me I am as fondly interested for *you as ever*—never then think you can tire me by writing, and would to Heaven that my poor prayers and those *far more worthy* ones that I have daily said in various places for you, may *snatch your soul in despite of yourself*, from the dangerous path in which it is going, for there is the error dear Roger, you do not look where *alone* we can hope for comfort or real happiness in this life—I see the date of your letter is the 20th, *alone* and *sorrowful* in your room, when as a Christian we ought to feel joy on that Glorious day Easter Sunday, when our Redemption was completed, but instead of *preaching*, I must send you *this emblem*." Then she sends him some religious picture, and says to him: "it so far more beautifully expresses what I want and wish to say, than I could by any words of mine—but I shall continue to implore Our Blessed Lady to take you under her protection, thro' the dangers

you run. Till your *mind* and *conscience* are *at ease*, you can not judge of life as you should, *virtue* and *vice* must be confounded in your eyes—and you neither see the career you are placed in or the happiness you might look for in its true light—you have your trials like we all must have—but conformity with the will of God smoothes our path.” Now comes a remark upon which so much stress has been laid and which has been the ground of so much observation: “Did you put a withered leaf in your letter? was it an emblem of yourself? if so throw it aside, look to the bright green leaves now opening around us in spring and say I will not be the *withered leaf*, but *resisting every inclination* to drown care and shorten my days turn to the blessings and graces God has yet in store for me if I ask for them & follow *His directions*! Truly do I hope you may be restored to the Church *this Easter* if in the proper disposition, otherwise do not profane the Sacraments, let me hear *very very* soon again, and with kindest love from your Uncle, believe me your really attached friend and aunt.” Gentlemen, I pass the withered leaf by. It has been strenuously urged upon you with the supposed mysterious and hidden meaning that we shall have to consider by-and-by; and I must say to my mind it ought never to be forgotten as one of the curiosities of forensic oratory; but for the present we will pass it by reserving it for future consideration. Then he sends her back the scrap of paper or whatever it is.

Next comes a matter which has been introduced by the defendant in his history of his military career in connection with Captain Polhill-Turner; namely, some confusion which Captain Polhill-Turner is said by him to have got into at an inspection by some general who came to inspect the regiment. I have pointed out to you that in 1850 there were two inspections at Calir. There appears also to have been an inspection of the one troop at Clonmel. “We have had,” Roger says, writing to his aunt on the 15th of May, “the inspection at the beginning of this week. The general commanding the district came last Tuesday to inspect the Clonmel garrison. It was rather a pretty sight to see nearly the whole of an Infantry Regiment, a Battery of Artillery, and a Troop of Cavalry drawn up all together in the large Barrack Square, looked very well especially by a fine summer’s morning.” Then he makes use of the very irreverent expression, “We are very glad that the inspection is over because we won’t see a cocked hat again for six months to come.” Then he says, “There is a common report going on that a fortnight’s leave will be given to each officer to go and see the exhibition. I only hope that the report may prove to be true (which I doubt very much).” You see he speaks of two inspections; the one at Calir in May, 1850, and the other at Clonmel in May, 1851. At the former he says the general was extremely well pleased at the way the regi-

ment performed its different evolutions. In this, he says nothing, except that they looked very well; and he makes no observation whatever which would bear out the statement of the defendant. With regard to the inspection in October, 1850, I find no reference whatever to that in his letters. It is just possible that there may have been some incident such as the defendant has spoken of as occurring on the latter occasion. That we shall have to consider more fully hereafter.

In a letter from Lady Doughty of the 23rd of May, she acknowledges the receipt of his pencil scrap, and then says, "Accept my very best thanks and if my pencil scrap was worth returning to you I would send it with pleasure, for I cannot but feel gratified by your kind remembrance of those months never to be forgotten by Me, that you spent with *us here*. I only wish you would not think so *despairingly* of your own character, and then *much* that I have said to you would have that effect which I so ardently wish for, your well being in *this* and the *next* world." Then she says, "Dear Roger, do not take it unkind of me to offer one bit of advice when you come over, *do pray* be more particular about your *dress & cleanly* appearance in the morning. I cannot bear to hear reflection upon you from those who have *casually seen you*—You really should be more particular—I know you despise the opinions of the world, but indeed you owe it both to your family and *even Regiment* you are *in*, to appear *nice* and *cleanly* at all times, now don't be vexed with your *best friend* for *writing this to you*. We have written to invite your Father & Mother here in July and asked to have Alfred to meet them, I cannot but feel *anxious* till I receive the answer." In answer to this he sent a furious letter, dated the 26th of May: "My Dear Aunt, I had the pleasure of receiving your last letter this morning. I nearly guess who is the person who has the kindness to make those remarks about my dress is the same who last year tried to make *you* believe as also to Lady Dormer that I tried to corrupt John Dormer's character and that I tried besides that to lead him into bad places. But in all cases by several things which have come to my mind since the receipt of your letter I am sure that I am not far from the truth, when I think of one person among others. But of *course* I cannot name." Then there is a postscript: "Don't think that I am in the least vexed against you. You may rest assured that I shall find out the person some way or another, we may then have a little row, but I don't care about it." Lady Doughty answers by saying, "If you attempt to fix upon *any one* person what I last told you, you will do a great *injustice* to *some one*, for they were the combined remarks of several persons upon your appearance at *different* times, and with regard to what you had been accused of with regard to J. D. it was named with great delicacy to me, by a person who thought I must have heard of

it (which as it happened I *had not*), and who having satisfied themselves it was NOT true, thought it best to tell me this conviction, & you would do most *unwisely* to name the subject to *any one*. When I opened your letter I expected very different contents—Alas! my Roger, your very writing shows me *too truly* how you are going on, but write again and tell me as I hear the leaves are given whether you intend coming over or not? & be assured that a better friend or kinder Aunt you will never find.” She writes to him again and says, “On the 16th of July there is to be the opening of St. Staplehill Church, and we shall have the Bishop and a party here for it. The chief object of my letter to day is to entreat you will let us know if the report of your Regiment being sent immediately to the Cape, as mentioned in yesterday’s paper, is *true or not*, and if so, when does it go, and shall we see you before. I need not dear Roger repeat all the deep regret of your Uncle and myself, you *know it well*, for to have seen you *settled* & the happy heir of our family in our lifetime would have been our greatest happiness. I can say no more, than I have often done to you—Pray now write quickly—your uncle sends his kind love—he continues gradually failing—God bless you—Ever your affec^{ate} Aunt who would fondly know *at least*, that your *soul* was well prepared for the possibility of going before God in a Caffer warfare.” Well, he gets leave, and writes accordingly; and then Lady Doughty writes him a letter which it is very plain he does not like. She says: “I received your letter last night, and am very glad for your sake that you have got leave & will enjoy the delight of seeing the Crystal Palace—I shall be glad to hear from you to say if you can spend a few days with us, for I conclude you have only a short leave. I am sorry to say the whole of next week I have not a room to give you, as we have a large party of Bishops and priests here then for the opening of the Church at Staplehill, but except from Monday to Saturday next week we shall be happy to see you if you can spare a few days.” He writes to Gosford to say he does not know whether he shall be able to go to Upton at all. He was evidently vexed at finding himself postponed to the bishops and priests. However, it ends, after he has been to London to see the Exhibition, in his going to Upton, where Sir Edward, Lady, and Miss Doughty had gone, on the occasion of the opening of this church, to receive the different ecclesiastics who were to take part in the ceremony. On the 11th of July we find him still in London. After that he goes to Upton, and stays there a few days, and then returns to his regiment. He goes back to Clonmel; but I should tell you that in the meantime, while Roger was away on leave, the troop to which he was attached, Captain Polhill-Turner’s troop, was ordered to Waterford, and left Clonmel; but for some regimental reason not explained, when Roger returned from leave, instead of joining the troop at Water-

ford, he remained with the troop which had taken the place of Captain Polhill-Turner's troop at Clonmel, and which was the G troop, Captain Moreton's troop; so that at this time, instead of joining his own troop at Waterford he became attached to Captain Moreton's troop at Clonmel. There is at page 1163 a Horse Guards' paper which says: "The troop to which he was attached marched on the 17th July, 1851, from Clonmel to Waterford, but he appears to have remained at Clonmel with the troop that arrived there from Cahir until October, when he rejoined his former troop at Waterford." He got back to Clonmel on the 29th July, as appears from this letter, and therefore he could not have been at the Brighton races in that year, because he could not have come back to England for the sake of the Brighton races, and if he had been disposed to go back for the sake of the Brighton races, he could not have done so without leave; and having just at that time had his fortnight's leave,—on account of the Exhibition, which it was thought right the officers should see,—it was not at all likely he could get fresh leave. When we come to the question of the Brighton card case, you will be so good as to bear this in mind. He was back again, according to his own statement, at Clonmel on the 29th; for writing on the 30th July to Mr. Gosford, he says: "I arrived in this beautiful town last night at 12 o'clock after a very tolerable journey." Now, it seems there had been going on at Upton what he did not at all like. There was company staying in the house, and, amongst others, there seems to have been one young gentleman, if not more, who paid considerable attention to Miss Doughty, and he took it into his head that the attentions thus offered to that young lady were favourably received, and felt that he was thrown into the shade whilst some more brilliant admirer was making his way into her good graces. He writes thus:—"I spend"—for spent—"as you know, few days at Upton with my uncle and Lady Doughty. I told Lady Doughty the day of my arrival that it was fully my intention to go abroad with my regiment. It appeared to me since that day that she had something on her mind which she wanted to disclose in a private way to another person"—he means his cousin—"but there was a kind of fear which kept her silent. For my part I avoided all kind of private conversation that might in some degree have displeased her. I have no doubt that you being in her confidence you will sooner or later hear all about it. They were several persons at Upton during the time I was there, among others the son of Lord Lovat. I don't think that I am far mistaken if towards the latter part of next year or the beginning of 1853 you don't see in the newspaper, in the column which is reserved for marriages in high life, the marriage of Lord Lovat and M. D."—Miss Doughty—"Don't say a word of what I have said to any living soul because it would put me still more on bad terms with my family

than I am at present. What I have just mentioned"—then comes a mistake in grammar which certainly startles one—"What I have just mentioned struck me the very first day of his arrival and I became more and more certain about it as I went on with my observations. I have no doubt that with what I have said and what you may observe you may fish up a good deal. Walter Strickland is in great favor at present, I don't know how long it will last. Lady Doughty has I believe been disappointed about me, you may perhaps know why, I had only time to find it out partly. If I had remained longer I should have made a point of finding it out. I may perhaps find it out yet, there is no knowing. I should feel much obliged if you burned this letter as soon as you had read it, because you might perhaps leave it about and somebody see it for which I would be very sorry." Now we know from Lady Radcliffe that even at this period (the middle of 1851) she had begun to feel a tender inclination towards Roger, of whose attentions to her at that time she must have been perfectly aware; but, you know, young ladies will sometimes—even though there is a favoured lover, on whom they have fixed their inclination—if some one else comes and pays them attention, indulge in a little coquetry, and sometimes, at the expense of the lover who really has a place in their heart, will show something in the shape of a preference to some one who merely pleases their imagination without touching their affection; and I cannot help thinking that perhaps when Miss Doughty saw Roger Tichborne look grave and solemn when the Master of Lovat made up to her, she played him off a little, and, instead of undeceiving him, did just the reverse; and hence the sort of expressions which we find in this letter about having no doubt that next year, in the column of the newspaper which is devoted to marriages in high life, her marriage with the Master of Lovat would appear. The real truth was, Miss Doughty at that time did not care about the Master of Lovat, but had already conceived a nascent and growing affection for her cousin Roger. The thing had not struck Mr. Gosford as it had Roger: he did not think there was anything serious in what was going on at Upton, and he must evidently have written to Roger in that view. Roger answers: "I had the pleasure of receiving your last letter sometime ago. I was rather surprised to see by it that you had not made the same observations as I did when I was last at Upton." Then he says, "I cannot make out what Lady Doughty has against me, she won't answer any one of my letters. I should feel much obliged if you had the kindness to try to find out what she has against me and let me know. I never receive any letters from Tichborne except from you and my father. I was very happy to learn that nothing disagreeable had taken place between my father and my uncle. It would be the greatest misfortune if quarrels were to take

place between them at their time of life." He writes again on the 20th August: "I have been long expecting a letter from you which would have given me some news of Tichborne and what is going on there. I have been daily expecting to receive a letter from Lady Doughty. I cannot exactly make out what she has to prevent her from writing to me. I hope that everything goes on well between my father and my uncle. I received not long ago a letter from Walter Strickland. He mentions that there is much company at Tichborne now; and that L. D. had been of late so much engaged that she *had no time to write a line* (I only rather doubt of it). She has something against me, but I cannot make out what the devil it is. How is my uncle now?" Then Lady Doughty writes to him a long letter, but which does not touch at all upon any of the things that were near his heart; it only gives him an account of having been at Portsmouth, and having gone over the great ships there, and he is dissatisfied with this letter, and in a letter to Mr. Gosford he says: "I am happy to say that I have at last received a letter from Lady Doughty. It is a cold, long, but very polite letter." Writing to him on the 10th October, he says: "I so very seldom hear from Tichborne that I am quite at lost"—this is the way he always writes "at a loss"—"to know what is going on in your part of the world. Lady Doughty has, I believe, given me up as a bad job. I scarcely ever hear from her. I heard from my Father few days ago;"—and then he says: "Have you observed anything further about what I mentioned to you in my first letter? I cannot help thinking that something or other must be afloat now"—alluding to what he had said about the Master of Lovat and Miss Doughty. Writing to his aunt he says: "I must apologize for not having complied sooner with the wish which you expressed in your last private note. But to say the truth it had quite escaped my memory. I have not heard anything more than the common vague report about my Regiment going to the Cape. I don't think that there is any chance of our going abroad. As far as I am concerned I have explained myself I believe clear enough the last time I had the pleasure of seeing you not to tire you any more by talking over again on the same subject. I don't know My dear Aunt if I have offended you some way or other; if I have I beg that you may consider it quite against my wish or knowledge. What makes me make this remark is that I have never been such a long time without receiving any letters from you, and besides that, the last one which I received contained I have no doubt some very interesting accounts, but it was written in a style which is generally called *cold politeness*. I hope that you will not be offended at my last remark, I shall consider this letter as private." She writes on the 21st October, "You certainly have reason to reproach me for silence to you

though the affect^e interest I have felt from childhood for you is ever the same and makes me *ever* desire to see you all I could wish you to be as much as when we had our long *talks* together, but a variety of circumstances which takes up both my thoughts and time makes me neglect in appearance those I love—your uncle's increasing infirmities, though the last few days he is better; but his state varies often and naturally requires much care & anxiety. You say in your private letter 'as far as I am concerned I believe I explained myself clear enough the last time at Upton &c.' Now what does this mean—you were then certainly bent upon India, and now neither your Reg^t are going there nor do you seem to intend it yourself; so that really I do not know what you mean. You mention intending to hunt, and of course the middle counties of Eng^d are the most desirable for *that*, but it has often occurred to me how much real improvement you would gain if instead you had ever thought of occupying a two months leave by travelling in Europe say Italy where every one seems going this year, you might see much in *two* months & which you never would do if you were ordered to India: now you have always *heard* with *patience* what I said, so *read it*, & then give me your thoughts and write soon to me." Then he writes to Mr. Gosford and refers to the suggestion made by Lady Doughty that he should travel on the Continent, and says, "I dont at all feel inclined in that way as I shall most likely have quite enough travelling in the course of next year to please my taste in that way." Then he says, "What I am looking forward to is this; I have several horses which I wish to sell, and I am as you may suppose anxious to do it to the best advantage possible."—It was quite understood at this time (although the order had not come) that the regiment was to go to India in the spring, and therefore it was necessary to get rid of his horses—"I should feel rather anxious to get a little English hunting before I sold them. Lady Doughty does not, I believe, wish that I should make any long stay at Tichborne because she is as you know very much afraid of what persons might or might not say. It seems rather strang^e"—omitting the final e in strange—"especially her seeing my intention of going abroad soon." Then he writes to his aunt, "We have now got to the month of November, it is sometime since I knew that my Regiment was to be send to India. I have I believe spoken to you often enough about my wish to go to India for some years that you must not be surprised if I heard with great pleasure that the order had come at last for us to prepare for Indian Service. I am much obliged at your enquiring if I have any wish. I have none at present. I have fully made up my mind to go abroad with my Regiment. I am in hopes of obtaining some leave during this winter. I shall bring over some of my horses to have a little hunting, and then I shall try to sell them

as well as I can. Such are, my Dear Aunt, my plans, which I hope I shall be able to follow. I hope to be able this winter to go et vous faire mes adieux." She answers, "It is useless I know to tell you how painful thoughts a *last* visit to *us* will have, still of course we shall be happy to receive you for the part of your leave which you may be able to give us, & therefore when you have made your arrangements you will let us know & you will find a *welcome* and your little rooms prepared." The next letter to Mr. Vincent Gosford shows what this man's mind was, and how resolute his will when he had once decided on anything. "I should feel much obliged if you had the kindness to inquire at Alresford or at Cheriton how much stabling for two hunters would come to if I took those stables for a fortnight or three weeks. I intend to apply for leave from the 15th of December to the 15th of February. If I can make some kind of arrangement with you about stables I shall send my horses about a week before I leave this place to have them quite fresh and fit for work. I don't think that I shall be able to spend more than a week or ten days at Tichborne because I shall have so much to do; the sale of one of my chargers and all the alterations which I must make in my uniform will keep me some time in London; all that, with my going to Paris, will leave me very little time to enjoy myself. I expect much blowing up when I go to Paris"—that is from his father and mother. "I intend to stand some of it, but if it comes too strong I shall go away at once. I am not going to remain to have the pleasure of being scolded all day; that won't do, it does not pay. You must let me hear from you soon to let me know about the stabling, as also if I can send you some of my things to keep for me. I have heard several times from Lady Doughty; she does not give me any particular news, except that the first Winchester ball is to take place this week. Her letters are certainly very kind, but there is a kind of coldness which I never remarked before last summer. What is the cause of it I partly see, but being far away I cannot say to any certainty. You most likely know it by this time very well. If you have made some observations, I should be much obliged if you let me know them;" and so on. He writes on the 29th of November to Mr. Gosford, again telling him that he is coming over, and then he asks him to come and meet him at Bath. "I wish, if you had nothing very particular to do, you could come and spend a day with me in the town of old maids, because as I am going to London, where I shall remain a few days before going to Tichborne, I might then speak with you on different things which would be advisable for me to settle with Mr. Slaughter when I shall be in London. I have been at last obliged to mention to my father my intention of going abroad. He wrote a pressing letter to know if what the papers said about our being light dragoons was true, I was

obliged to answer that it was, and moreover that it was my wish to go abroad with my regiment. I have no doubt that you will soon hear all about it."

Visit to Tich-
borne.
Miss Doughty.

We are now about to enter on a very important epoch in the history of Roger Tichborne. He obtained leave from the 15th of December to the 15th of February, and on Christmas Eve he came for part of that leave to Tichborne; and from what he himself has recorded you can have very little doubt that if he had had any misgivings from what he saw at Upton, as to the feeling of Miss Doughty towards him, her reception and her manner when he came to Tichborne must very soon have dissipated any anxiety on that score, and have satisfied him that his affection was returned, so far as a young lady of her age, brought up with all the delicacy of maiden modesty, could by her manner disclose what really was passing in her mind. He saw this; but no doubt he was perfectly aware of the difficulties which stood in the way of the accomplishment of his wish—the marriage with his cousin. In the first place he knew very well that Lady Doughty was by no means anxious that the marriage should take place; in the second place, he knew very well that neither his uncle nor his father would look with favour on a marriage which the church discountenances, and which, in their private and personal opinion, was one which, owing to the propinquity of blood, had much better be avoided. He knew all this, and he talked it over with Mr. Gosford; he made no secret with Mr. Gosford, who was in his confidence in everything, about his attachment, and his desire to marry his cousin; or, on the other hand, of his sense of the difficulties that stood in his way; and it was in one of those conversations that he suddenly sprung up, as Mr. Gosford has described it, seized a sheet of paper, and wrote the vow about building a church. That there was such a document is beyond all possibility of question: whether that was the sealed packet will be a matter for you to consider by-and-by; but that he did place in the hands of Mr. Gosford a paper recording a vow to build a church in honour of the Virgin Mary, if, through her intercession with God, his marriage should eventually take place, I think it is impossible, looking at the letters which we have under his own hand, for a moment to doubt. Now, the disposition of the two cousins would of course be pretty visible to everybody. Roger was very much in love with her, and naturally showed it. The probability is that the young lady, though not entertaining perhaps so strong or ardent a reciprocal feeling, but still feeling a growing attachment towards him, showed that she was not altogether displeased with his attentions; and this state of things would, of course, very soon become manifest to those who were interested in the matter. Lady Radcliffe tells us herself what her

feeling was. She was asked, "Were you aware of an attachment at that time which he had formed for yourself?" and she answers, "Nothing had been said at that time.—However, I suppose you were aware he was paying you attention?" Her answer is, "I was not sure of it—You were not sure?—I was not sure at that time—Between the commencement of his visit and the 11th January, was anything said between you and Roger which told you of the state of his feelings towards yourself?—No, nothing was said directly—But did you become aware, at all events, of the state of his feelings?"—"I hoped it was"—Her answer was a very touching one—"I hoped"—"Did you know Sir Edward Doughty and Lady Doughty were aware what the state of Roger's hopes was?—I did not know anything directly about it." Still we can easily believe that his attentions were plainly marked, and that this became visible. Now, Lady Doughty had by no means made up her mind to approve of the match, or to assent to it: on the contrary, at that time, from the letters I have been reading to you, it would seem she was inclined, and perhaps strongly inclined, the other way. The difficulty of relationship had not been a small obstacle in her view of the matter from the beginning, but it might have been got over, looking to all the circumstances, if she had had perfect confidence in Roger's habits. But it is very plain that she had not. Whether her view of his being addicted to drunkenness was an exaggerated one or not, there is no doubt that Roger had a tendency to drink; there is no doubt some one or other kept Lady Doughty well acquainted with the fact; and I think it is impossible to read her letters and not feel that she rather despaired of Roger being completely reclaimed from this besetting and unfortunate propensity, and she knew very well it was impossible to hope for domestic happiness from the union of her daughter with a man who had a propensity of this nature. I think, therefore, that at this time, so far from being disposed to give in to the wish of Roger, she had a strong inclination the other way. Accordingly on Sunday morning, the 11th of January, just as they were preparing for church, Roger receives a summons to go to his uncle Sir Edward in the library. He goes, and Sir Edward at once states to him without any reserve his disapproval of his attentions to his daughter, tells him fairly that he thinks the relationship of first cousins a serious objection—one which was sufficient to induce him to withhold his consent to the marriage. "It will be better for both of you," he says, "that this should be put a stop to at once; the longer you remain together, the stronger this attachment will grow. It is only by immediate separation, by cutting the tie asunder once for all, that pain and unhappiness can be spared to both of you: therefore, my dear Roger, the sooner you leave us the better, and I wish you would go at once." Accordingly, it was decided that he should

go the next day. After this they went to church. Lady Radcliffe tells us she did not see anything more of him till the afternoon. She only knew that he had been summoned to her father, but did not know what for or with what result. In the afternoon her mother told her what had passed, and thereupon she desired to see Roger, and she saw Roger in the presence of her mother, and I suppose she thought it was as well to make no disguise about the matter—thinking possibly that the fair acknowledgment, the honest confession of her feelings towards her cousin Roger, might have some influence on her mother and father, or at all events desiring that before Roger went away he should thoroughly understand that she had really conceived a feeling towards him and returned his affection. What he felt on that occasion he has himself committed to writing. You have been told that the love of these two persons was all a mere pretence and sham. The expression, I think, was that it was “humbug”—a term we are not used to in forensic language; but which the learned counsel for the defendant has introduced for the first time, as appropriate, I suppose, to the occasion. To be sure, he said at another time that it was not quite a humbug, so far as Roger was concerned; but then, although he admitted that Roger had a real passion for his cousin, he degraded it into mere personal desire, and denied to it all the higher qualities of that divine passion, which amongst other things distinguishes man from the animals who feel only the instinct of sexual desire. Now in order that we may judge of that, let us see what were the feelings of Roger at the time; let us see what are the expressions in which those feelings were described, as he wrote them to his cousin. “What I felt when I left my uncle it is difficult for me to explain. I was like thunderstruck, I came back to my room, I tried to pack up my things, but I was obliged to give up the attempt as my mind was quite absent. I sank on a chair and remained there my head buried between my two hands for more than half an hour. What was the nature of my thoughts my dearest K . . you may easily imagine—to think that I was obliged to leave the next day, not to see you again not perhaps for years—if ever I came back from India—the idea was bursting my heart. The time passed on”—the word “time” is omitted, but it is evidently what he meant—“giving me no relief till about 2 o’clock, when my aunt told me that you WISHED TO SEE me. That news gave me more pleasure than I can express, so much so that I never could have expected it in the morning. I saw you my dearest K. at about 5 o’clock. You cannot conceive what pleasure it gave me, I saw directly you felt my going, so that I determined to tell you all what I felt towards you. WHAT I TOLD YOU MY DEAREST K. . I dont think it necessary to repeat as I suppose you may remember it. When we left the drawing room I came back to my room; my

heart and mind were so much oppressed that it was impossible for me to think of going to bed, I stopped up till two o'clock in the morning. I don't think it necessary My Dearest K. to tire you with the details of all what I felt for you in THOSE TWO DAYS; suffice to say that I never in all my life felt more acute pains especially during the night when I was not able to sleep; what were my thoughts during that night I cannot express."

Well, Gentlemen, he left the next day, in what frame of mind you may see from what immediately followed. On the 12th, on getting to London, he writes to Mr. Gosford, "I should feel much obliged if you had the kindness to direct all the letters which may come to Tichborne for me at N^o 34, St. James' Place, London. I shall leave London on Wednesday the 17th of this month, so as to arrive in Paris on the 19th or 20th. If you have nothing better to do come and breakfast with me"—evidently wanting to get Mr. Gosford to talk about these things which were on his mind—"I am going to see Mr. Slaughter now, and to-morrow to talk about my will, so that I should like to see you on my way to Southampton. If you can come send me a note at the station; try to be there a little before me to order breakfast. Pray excuse this short note, I am in such a low state of mind at present that I don't know exactly what I am writing." He goes to Winchester, on his way to Paris, but Mr. Gosford not having come to meet him, he writes: "It was such a misfortune that you were not able to come and meet me. I left London by the first train to be able to spend some time with you. I had arrived at Winchester at a 9 $\frac{1}{4}$ and left at 12 $\frac{3}{4}$. I have written out my will and left it with Mr. Slaughter. The only thing I have left out is about the church, which I will only build under the circumstances which I have left with you in writing. Mr. Slaughter told me that he hoped to have a scheme ready by the time I come back." I observe in passing, that it is quite plain from this that he had left a paper with Mr. Gosford relative to the building of a church. "*The only thing which I have left out is about the church, which I will only build under the circumstances which I have left with you in writing.* Mr. Slaughter told me that he hoped to have a scheme ready by the time I come back. I don't live here in my mother's house; I have taken up my lodgings in the Brighton Hotel, Rue de Rivoli. I find that way of living much better, it gives me more liberty." Then he says—"How are they getting on at Tichborne? I little expected, three weeks ago, that my visit to Tichborne would be cut short as it has been; but, however, such has always been the case with me ever since I was born. It is not new to me, but no less painful." He writes to his aunt—"You have most likely received this morning a letter from my father, in which he expressed his wish that I should go and sleep and spend a day at Tichborne.

I have been obliged, to save many questions and explanations (which I would not have given) to say that I would. I am sorry that I have under those circumstances been obliged to say a kind of lie because it is not my intention to go to Tichborne. I shall nevertheless be obliged to remain for an hour or two at Winchester on my way to London, to leave at Mr. Hutchinson a great many pictures and other things which my Father has bought in Paris and has asked me to take for him in England." Then he says—"Don't be offended my Dear Aunt about what I have written, I thought it necessary for me to write to save all kind of misunderstanding between all of us; that is to say, between my Uncle my Father and yourself. Don't mention what I have written but keep it secret."

He returns to London from Paris, and he writes from London to Mr. Gosford. "I arrived in London last night"—this is the 31st January; consequently he arrived on the 30th—"after a very fair journey from Winchester. I don't think that I shall go on Tuesday at the meet at Tichborne. I don't suppose that this change will surprise you after the different reasons which I gave you last night. Nothing in the world would give me more pleasure than to spend an hour there, but at the same time it might bring back into my cousin's mind those painful occurrences which took place on my leaving Tichborne. It is painful enough for me to bear it without bringing back to another person painful recollections. But in all cases I shall wait till I receive your letter to take my last determination."

On that same day, having returned to London, he received, no doubt much to his surprise, but probably not a little to his satisfaction, a summons to come down again to Tichborne. Sir Edward Doughty had been taken most dangerously ill, and it was thought he could not get over it; and accordingly his next heir and near relation was summoned to Tichborne, and found his uncle in a desperate condition. So ill was he that Roger the next day writes to his mother begging that his father will not lose a moment if he wishes to see his brother alive; and he writes to Mr. Danby Seymour saying he does not think his uncle will live for twelve hours. However, in spite of all these predictions, Sir Edward did afterwards, as we know, recover. Now, Sir Edward being thought to be dying, it occurred to the two cousins, that if at some future time, when she would be her own mistress, they should determine to marry, it would be a painful thing to think that her father had gone out of the world leaving a prohibition against their union; and accordingly she tells us that they arranged between them that Roger should see her father, and endeavour to induce him, as he was supposed to be on his death bed, to withdraw his prohibition, and, as she expressed it, if at any future time they were to marry, to leave his blessing on their

union. Roger saw him, and the old man, touched by the expression of Roger's affection for his daughter, and perhaps influenced in some degree by his affection for Roger himself, ended by withdrawing his absolute prohibition, and substituting for it a conditional assent. Roger put on paper what passed between him and his uncle. The language, no doubt, is his own, but the substance, I cannot doubt, is what in truth did pass between the two. The uncle is supposed to say as follows: "My dear Roger, I know the mutual attachment which exists between you and your Cousin. If you were not so nearly related I should not object at all to a marriage between you two. But, however, wait three years"—it wanted three years to his daughter's coming of age—"then if the attachment still exists between you two, and you get your Father's consent, as also leave from the church, then it will be the will of God, then I wont object to it any longer." Then Roger is supposed to answer. Here are his own thoughts and views thus put in his own language: "Ever since I have had the pleasure of knowing you and my Cousin I have always tried to act towards you two as also towards my Aunt in the most honourable way I possibly could. The church as you know grants dispensations on these occasions. Of course, I think I would get my Father's consent, as also the leave from the church, and do it in an honourable way in the eye of God and of world." In the course of his visit, which continued until the expiration of his leave, many conversations took place between Roger and his cousin. She tells us she asked him to put his thoughts and sentiments towards her on paper, and he does so, and these documents remain as memorials of Roger's feelings towards the young lady; and since his love has been called in question, and has been either denied altogether, or sought to be converted into some low, base passion, let us hear his own account of it in his own words. These papers are among the very worst in point of writing and spelling and grammatical mistakes that are to be found in the whole of Roger's letters. It has been said by the counsel of the defendant that they are the effusions of a drunken man. It might, I think, have been as well suggested that they are written under powerful emotions quite sufficient to agitate the strongest of us, and that the badness of the writing and the numerous mistakes, might be accounted for by such a cause. But let us read. If they were written under the influence of drunkenness, there would be the more likelihood of any evil passion or sinister purpose which might have been lurking in his mind, cropping up to the surface and becoming manifested: let us see whether there is anything of the sort.

"Tichborne Park February the 4th 1852. 1½ o'clock in the morning. My dearest K. You have asked me for the last two days to write my thoughts. I shall try to satisfy your wish on that point

now that my thoughts are somewhat calmer than they were during the day. I have as you may suppose much to think of at present; the nature of my thoughts is I grieve to say of a very painful and melancholy nature. I will however make an effort upon myself and disclose my secrets to you in the clearest way I possibly can. I shall devied them into different points. M. Dearest K I am at present in a great state of mind about my Uncle and my Father. I expect my Father to come to morrow I hope that he will be able to bear this severe trial with courage. He—" here we have an omission of the auxiliary, which we find so often in the defendant's letters, but only in a few instances in Roger's—" He not at all well when I left Paris last Thursday, he had a bad cough and he would not take anything for it. He will I fear very much that he will have before long a very severe illness, he has not I am afraid enough strength to bear these severe trials. I may perhaps surprise you my Dearest K when I say that I feel a head of comfort about my Uncle. It is I know a very severe trial which God has send upon you. I do feel it more deeply than I can express, but this is the time when you must show the power of Religion and offer up to God the pain and sorrows which you feel now You will by doing so make a act"—that is French, "make" instead of "do"—" You will by doing so make a act meritorious before God and may hereafter be a comfort to you and God will reward it by sending you some new graces and will I have no doubt fulfil your wishes"—He writes "graces" in the way the French write it, in the plural, instead of, as we should do, in the singular.—"You ought to be thankful to God my Dearest K for givin time and means to my Uncle to prepare for death as he has. Believe me this must be a great comfort to you through this severe trial. God only gives the grace of a good death to those who have led a good and virtuous life It is a reward which is given to those who have practised virtue and have givin good example to others. It may perhaps surprise you to hear me talk in such a way and that I should not follow what I say." Then comes another paper: "I shall go on with my confessions only asking you to have some indulgence if you find them to long and tedious. You are my Dearest K the only person for whom I have ever formed such a strong and sincere attachment I never would have believed few years ago that I was able to get so attach to another. You are the only young person who has ever shown me some kindness, for which I feel very thankful. It is in some respects rather a painful subject for me to have to acknowledge my faults but as I have undertaken the task I must write all what I have done and what have been my thoughts for the last five weeks. I had a very—" "strong" I suppose it should be, but that is omitted—" idea when I left Ireland which was this I thought that you had entirely forgotten me"—Now we understand why he talked about having an

objection to marry, and said he was not prepared to marry: he did not believe that the person whom alone he cared to marry cared at all for him—"I thought that you had entirely forgotten me. I was nevertheless very anxious to come to Tichborne for a short time to take a last farewell from you my Uncle and my Aunt My mind and heart were then so much oppressed by those thoughts that it was not my intention then to come back from India before ten or fifteen years I loved you then my dear K. as dearly as ever I could have done anything in this world to"—then the word "and" comes in some how or other, which it should not—"oblige you but to see happiness to which I might see you and to which I might have also given my help for your own happiness sake, to have seen all those things I repeat again with a dry eye and unbroken heart is for a person who has a strong feeling of attachment towards another beyond"—for beyond—"human power almost impossible. A person may"—then he strikes that out and gets into confusion with the composition; it is a somewhat long sentence—"but to behold it is almost beyond the humane power. It is the reason why when I should have been far away thousands and thousands of miles far from you I should have taken my pains and sorrows borne them in silence and have formed some new wishes for your happiness in this world and send a prayer for you that you might bear the pains and trials of this world with courage and resignation and be by those means happy in the next. When I came here I found I had been mistaken in the opinion which I had formed and reproached my"—"self" omitted—"bitterly of having ever had such an idea. It is not necessary"—he makes two attempts to spell the word before he gets it right, and scratches the former attempts out—"It is not necessary for me to mention that I got rid of these bad thoughts in a few minutes. Things went on happily for me till Sunday the 11th January the 11th 1852 when I was send for by my uncle when I was at breakfast. What took place between us I think it unnecessary to repeat as you know it already. I was obliged to leave the next morning by the first train for London. I never felt before * so deeply in

in * my life what it was to part with the only person I ever loved, how deeply I felt it I cannot express but I shall try to explain as much of it as I can in the next chapter." Then he says, "What I have suffered last night I cannot easily explain. You know My Own Dearest K. what are my feelings towards you. You cannot conceive how much I feel going. It breaks my heart my Own Dearest K how long I shall be without seeing you I do feel that more than I can tell You have the comfort of a home and moreover the one of having some time or other some persons to whom you can speak and who comfort you. I have none I am thrown on the

world quite alone without a friend, nothing. But however I shall try to take courage and I hope that when you will see me in those years you will find me changed for the better. I shall employ these three years to reform my conduct and come all that you can wish to see me. I shall never My own Dearest K. forget the few moments which I have spend with you, but on the contrary I will always consider them as the happiest in my life. You cannot imagine how much pleasure your letter has given me.”—She had evidently written him a letter, which is not forthcoming, and which we know nothing about, in which she had no doubt candidly acknowledged to him her feelings.—“It has proved to me far above any possible doubt what are your feelings towards me. I did not it is true require that prove to me to know what you felt for me. It is for that reason why I thout most sincerely for that prove of confidence which you have given me by expressing yourself so kindly and openly to me. You may rest assured my Own Dearest K that nothing in the world will prevent me (except kept by active service) from coming back from India at the time which I have named to you which is the latter part of Autumn 1854 or January 1855”—I should observe she would be of age in April, 1855—“It will be a great comfort for me My Own Dearest K when I shall be in India to think of you it
which

will be I may say the only pleasure I shall have wish to have It
for me

is such a comfort × to think of the first person I ever loved and you may rest assured that nothing in the world will ever make me change and moreover if you wish me to come back sooner only write me that you wish me to come back I shall not remain five
the army

minutes in × more than I can help it but comply with your wishes and come back as soon as I possibly can and rest assured My Own Dearest K that in any situation in life I may be of any help or service to you I shall be always but too happy My Own Dearest K to do anything in my power to serve and oblige you. Believe me My Own Dearest K Ever your very affectionate.” Gentlemen, can any one read those papers and doubt that that man loved the lady to whom they were addressed with all the sincerity of a warm and devoted attachment? Can anybody doubt that that attachment was of a pure and noble kind, and not the base, grovelling passion that the learned counsel sought to represent it? No. It is impossible, I think, for any candid mind, anxious for the truth, to read those documents, and whatever may be his opinion of Roger irrespective of his attachment to his cousin, to doubt the purity of that attachment. He may have been loose in his morals; he may have had bad habits and evil propensities, but as far as Kate Doughty was

concerned, I cannot find a trace of a single thought or feeling that was not noble, honourable, generous, and pure. It was the love which has been so happily and incomparably expressed by the poet :

“ His love sincere, his thoughts immaeulate ;
His tears, pure messengers sent from his heart ;
His heart as far from fraud as heaven from earth.”

I can see no trace of anything that a man of honour who was courting an honourable woman need be ashamed of. It was what is expressed by those lines from beginning to end.

I should here mention that an unpleasant incident had happened while he was staying at Tichborne ; it appears that he sat up one night watching in his uncle's room during his uncle's illness, and that on that occasion he drank either too much wine or spirits and actually exhibited it. Of course it was a very painful thing to his aunt and to Miss Doughty, who would naturally feel it very much ; and in consequence of that he wrote a paper which he left with his cousin, in which he records a promise never to drink more. “ My dearest Kate, I give you my word of honour that I never will from this day drink a single drop of spirit of any kind whatsoever.” Whether that promise was kept, even for a time, is uncertain. At all events, when the relation between himself and his cousin was put an end to, I have little doubt he considered himself released from the obligation of that promise ; but from a letter which I shall have to call attention to, it certainly does appear that, so long as that relation lasted, he considered himself bound by the promise which he had given and that he had kept it.

Gentlemen, Roger continued at Tichborne till his leave expired, and then went back to his regiment. But before he went away he wrote a letter to Mr. Slaughter to which I must call your attention. We are here perpetually alternating between the common-place business of life and the romantic part of the story ; they are equally essential to the decision of the issue which you will have by-and-by to pronounce upon. He had received, as you know, some time before, a full explanation from Mr. Slaughter of what his powers were with regard to any future disposition of the Doughty estates, and he now writes a letter of the 5th January from Tichborne containing instructions for his will, and I do not know that I can explain anything to you more clearly than it is to be found in this letter. I do not suppose that the letter is his own composition, though I can entertain very little doubt that the instructions themselves were substantially his own ; but it was written at Tichborne, and Mr. Vincent Gosford had on a former occasion helped him to write a letter to Mr. Slaughter, and I think this on the whole much too well written to have been written by Roger, and I should suppose

that Mr. Vincent Gosford helped him again. "As I expect shortly to go abroad, it is my wish to complete certain arregements"—he leaves out an "n" and writes "e" instead of "a"—"to complete certain arregements in regard to my property, which in a former letter I informed you it was my intention to make. I have thought much of the subject, and it is my wish and intention to leave the Doughty estate in the following manner—If I die, my Brother Alfred will of course succeed to the title and the Tichborne estate"—the latter you know Roger could not interfere with; it rested on a settlement which he could not in any way touch or affect—"which estate by the settlement of last year would then be freed, by the aid of the Doughty estates, from the charges upon it"—that was by the 100,000*l.* which was to be raised at that time—"With regard to the Doughty estates, I wish to leave them by will to trustees on Trust to settle them as follows:—

"First, to pay to my Brother Alfred, on his attaining the age of 21 years of age, an annuity of 2,000*l.* per annum, and an additional sum of 1,000*l.* per annum on his marriage, which last sum of 1,000*l.* per annum I wish him to have the power to charge upon the Doughty estates as a jointure for his wife in case of his death.

"I next desire particularly to carry out the object which if I live I propose to myself, I mean the clearing off from the Doughty estates the incumbrances with which they are charged with the object of clearing the Tichborne estates' incumbrances. I desire therefore that from the time these estates shall come into the possession of my trustees, the whole of the surplus rents, subject to the above annuities to my Brother Alfred, shall be devoted to this purpose.

"As soon as these incumbrances are paid off, then I give to my Brother Alfred, for his life, the whole of the rents of the estate. If my Brother should marry and leave sons, the eldest son will of course succeed to the Title and the Tichborne property. I wish him also to take the London Doughty property for his life, or in the event of his death then the same to go to the eldest surviving son of my Brother. But I desire that Upton House, and all the property in Dorsetshire, Buckinghamshire, and Lincolnshire, should, at my Brother's death, go to his second and other sons in succession, except he should have but one, when I desire it to go to him, upon this condition, nevertheless, that whichever son should succeed to this property, shall assume the name and arms of Doughty, before and in addition to his own name of Tichborne, or shall forfeit the estates to the next Heir.

"If my Brother Alfred dies unmarried, or marries and has daughters only, the Tichborne estate is to go to my relation, James Dormer."—This, you know, was by the effect of the Tichborne settlement, in which, after the remainders to the sons of James Tichborne

for life, and to their issue in tail male, there was a like remainder to James Dormer for life and to his issue in tail male.

“As my Doughty Property, by the Settlement of last year, is now chargeable with the incumbrances hitherto existing upon the Tichborne estate, and as a further sum of near 40,000*l.* is also raiseable to make additional purchases for the benefit of that estate, I desire that my Brother Alfred shall have the power to charge upon those purchases, or upon whatever interest I have in those charges, to the amount of 20,000*l.*, to be divided equally amongst all his children except the eldest. And I give up in favour of my Cousin, James Dormer, all further interest in those charges, provided that on coming into possession of the Tichborne Property he uses and assumes the arms and name of Tichborne.” Now comes the disposition he proposed to make in favour of Miss Doughty and her children: “In the event of my Brother Alfred’s death without leaving sons, then I desire to continue the succession”—not to Alfred’s daughter, but—“to the 2nd or other sons of my Cousin, Katharine Doughty, or if she has but one son, then to him. But if my Brother or Cousin should have Daughters only, I wish the estates to go to the eldest and other daughters of my Brother Alfred in succession and their heirs, or failing them, to my Cousin for life, and then to the eldest and other Daughters of my Cousin Katharine Doughty. And if I should be in actual possession of the estates at my death”—showing that he was perfectly conscious at this time, the beginning of 1852, that only by possession of the estates at his death could he make this disposition to his cousin by will—“And if I should be in actual possession of the Estates at my death I direct my trustees shall offer to my Cousin, Katharine Doughty, till her marriage, the free use of Upton House and the Gardens attached for a residence.” So long as his Uncle was alive, and his father was alive, he could do nothing towards giving Upton House as a temporary residence to his cousin Miss Doughty. So long as he lived his will would not take effect. It therefore was necessary that he should himself come into possession, and accordingly he makes this provision in favour of his cousin contingent on that event. He then goes on, “I further desire to give my Brother Alfred the power to charge 30,000*l.* on the London Doughty estates for the benefit of all his children (except the eldest son) in equal shares, but that money not to be raised till my Brother’s death. As to the Surrey property, I give the power to my trustees to sell it and apply the money to the clearing off of the incumbrances on the Doughty estate.”

Now comes a passage which is of no importance so far as the provisions of the will are concerned, but of great importance as elucidating the question of whether or not he had left a document with Mr. Gosford at this time, January 5th, 1852, as to something that was to be

done, not under his will, but in a totally different way :—" My private wishes and intentions as I intend to have them carried out if I live, I have confined to Mr. V^e Gosford, and I request that you and Mr. Gosford will act as trustees and executors of my Will."

Thus, what he proposed to do, and what you will find he afterwards carried out by the will which he executed, was this: he intended if he lived—and that intention he wished to impose upon his brother Alfred when Alfred succeeded him after his death—first, and above all, to release the Doughty estates from the heavy incumbrance of 100,000*l.* which had been imposed upon it for the purpose of relieving and augmenting Tichborne. The thing to be done was not to go on spending the entire income as if there were no incumbrances on the estate; the first thing was to get rid of the debt. You cannot imagine anything more wise, sagacious, or prudent. Another young man would have said: "Oh, the interest on the debt is 4,000*l.* a year, let us pay that and spend the other 16,000*l.*, and leave the debt to take its chance." Not so Roger. He says the first thing to be done is to clear the estate from the debt which rests upon it, and there is but one mode of doing that, and that is, not to live up to the income—if I live, that is what I will do, and if my brother succeeds it is what I will make him do. If I die he will inherit Tichborne; the rental of which, relieved from its incumbrances, is 6,000*l.* a year; in addition to that I will give him 2,000*l.* a year while he is unmarried, and an additional 1,000*l.* on his marriage. That will give him an income of 8,000*l.* or 9,000*l.* a year, enough with Tichborne House to satisfy any reasonable desire: in the meantime let the residue accumulate until by degrees the whole debt is paid off.

Having made that provision in the first instance, he then says, whenever the debt is paid off, let Alfred, as my successor, enjoy the whole for life. When he dies, if he should have two sons, then I will have the scheme which I have had for some time in my mind carried out. The property being equally divided and a certain portion of the Doughty estate being added to the Tichborne, it would make two incomes of 10,000*l.* a year, if not 12,000*l.* There are the two seats, Tichborne and Upton, to the sale of the latter of which, having this arrangement in view, I have always refused to consent. Upton House will form the seat of the second family, and that second family will owe its estate to me. If therefore Alfred shall have two sons, I shall do with his second son as I should have done with mine if I had married and had children—his second son, if he have one, shall inherit the second part of the divided property. If he has no sons what then? Why, then, it shall go to a son of my cousin Kate Doughty, whom I love and who then will have married some one else. It shall not go to her eldest son as a whole any more

than to Alfred's. The property destined to make a second inheritance shall not go to her eldest son, because probably she will marry some man of fortune, and the eldest son will inherit his paternal property, and mine will then be merged in the property that son will inherit, and it will not make the second estate which I desire to create. It shall, therefore, go to her second son, if she has one. If she has no son, then it shall go to Alfred's daughters in succession. If he has no children at all, then it shall go to Kate Doughty's daughters; but in that case she shall have a benefit which shall not accrue to her if she has a son. I will give her a life estate which shall intervene between the estate given to her son, if she has a son, and the estate I give to her daughters in the event of her having no son and Alfred having no daughter; it shall be hers for life with remainder to her daughters. Then, in addition to all that, he says, suppose I come into possession, and I die, and so my will takes effect, then in that case I desire that my trustees shall give Miss Doughty, in the event of her being still unmarried, possession of Upton as a residence—I know she is attached to the place—until she marries. When she marries she will of course follow her husband and reside at his residence, but until she marries she may have Upton.

Now that, Gentlemen, is the scheme he had in his mind and which he embodies in these instructions and eventually carries out. It is important you should bear these testamentary dispositions of his in mind; because by-and-by we shall have, as I have said, to see what was the knowledge of the defendant when his mind came to be tested on this subject; and if you are satisfied that Roger Tichborne made these testamentary dispositions, with perfect knowledge of what he was about, on which we shall see the evidence by-and-by, if they were the production of his own mind and of his own independent will, then according as you find the defendant exhibit knowledge or ignorance of all these dispositions so made by settlement or by will, you will be able to form your judgment of whether he is Roger Tichborne or whether he is not.

Gentlemen, on his return to Clonmel, Roger writes to his aunt on the 14th September, which seems to be the very day of his return—"It would be quite impossible for me to write anything at present. I am unwell, too low-spirited to be able to collect my ideas so as to allow me to write a letter with any kind of sense in it, but I will let you know how I am getting on and how much I have reformed my conduct at the very beginning of next week—I have already begun at Tichborne and I will go on now trying to improve every day as much as I can" Then she writes a letter without date, but evidently written at this period. "Having letters to forward to you to-day I cannot resist sending this line to assure you of the anxiety I feel to hear from you & pray name if your cough is better & do

take care of yourself for all our sakes—our sad house is as when you left, and *each* feeling our sorrows; it may be a comfort for you to know that your Uncle appreciates your honourable conduct on this occasion and though we both feel deeply the stern conduct (from a sense of duty) we have pursued, that we had no other line of conduct to follow with *justice to you both*, at present, and the future is in the hands of God—O dear Roger, let all that has happened be an *additional* motive to you to avoid that vice, which ruins health & entails misery & must shorten your days—do feel at least how fondly we have looked to your taking the first position hereafter in this family—you are constantly in my thoughts, of course sorrow oppresses us, but y^r Uncle and cousin send their affect^{ve} love and I am ever your attached Aunt.” You see at this time Sir Edward—and of course Lady Doughty was involved in what he had done—had given a conditional consent to the future union of Roger and their daughter, but it was to stand thus: they were to wait until she came of age, and if both remained in the same sentiments one towards the other well and good; but she was in no way to be interfered with, was to be perfectly free; if she saw some one she liked better it was to be no engagement; there was to be nothing to bind her or pledge her or the parents to any particular course; the whole thing was to stand over until she was of age. But, says the father, who was then supposed to be dying, if at that time you are of the same mind and choose to marry I withdraw my prohibition and I consider that it will be the will of God that your union should take place. Lady Doughty’s letter proceeds on this footing. Again she writes: “I write sooner than I should have done to thank you for your kind letters received to day, because I feel with all my heart for the struggle of your own heart & mind which I know must be going on. Now, do not be discouraged, you have made a noble and generous effort to shake off vice & habits which would have ruined body & Soul, do continue in your good resolutions, and your Heavenly Father will give you grace *if you* daily and constantly ask it, and rely that as he said ‘ask and you shall receive, seek & you shall find’ He will not be outdone, but reward & support you *tenfold* for every effort you make for your immortal Soul, but remember it is by perseverance we can hope to reform bad habits—I shall wait with anxiety your next Letter—I have such entire reliance on your truth and honor that I am sure you will tell me sincerely both your difficulties and how you are both in *health & mind*—do not forget your throat was not well and that it shewed coming after your attack on the chest a degree of internal congestion which must absolutely require great care for some time & now I shall tell you how we have gone on since & our regret we had to part with you. Your Father remained here very low & poorly all day, but Saturday he revived

and seeing your uncle improving so much he left with comfort & in good spirits. Katty & her Maid having commissions in Winchester accompanied him there and he seemed pleased & very kind—for the first time he expressed to me the happiness he had in seeing a return to Religious sentiments & practice in you, that he always hoped & as he said ‘never could believe you radically bad but that God only knew how he had suffered in mind and prayed for you’—of course I said what I could to encourage and cheer him.”

She writes to him again on the 25th of February, in terms which show that at this time she was not discouraging him in the expectation of having her daughter’s hand at some time or other, “Do dearest Roger keep up your courage, and remember that the *efforts* are worth making both for what you wish to gain in this world and still more for the far *far* greater rewards in the *next*. Still I feel for and understand all your trial.” I take it that when she speaks of “what he wishes to gain in this world,” she must have referred to her daughter. He writes to her on the 28th of February, “I have as you are aware begun in a firm and determined kind of way to reform my conduct in every way in which I thought it required alteration. I have among other things begun by giving up drinking altogether. It is not without much struggle and firm determination of mind that I have been able to keep the promise which I gave Katty before I left Tichborne. It is so much more difficult for me to keep from it that I am at present in low spirits—I don’t wish in the least to excuse the vice of drinking but it is in those cases when a person feels himself low that he wishes to drink, not to do wrong but as a relieve. I think twice My Dear Aunt before I give my word of honour because I consider it as such a sacred thing that if ever I was to act contrary to what I have promised I would consider it as such a disgraceful spot on me that I would not dare to show my face before you or anybody else, because I think that a man who cannot keep his word of honour never can be believed or trusted and he is for that reason worse than a brute. I am at present taking care of myself, thing which I have never done before in my life I am taking the different physics which Mr. Lypsecomb advised me to take. I hope with the help of God to become before long what you wish to see me. Several persons have remarked how much I was changed especially in the drinking line. To all enquiries I answer that drinking might do some time or other in England but never would do in India. To that they told me that I was perfectly right but that they never would have thought that I could have brought myself to a change so suddenly. I have, at least I hope that I have fulfilled my promiss. I have written in this private letter what has been my line of conduct since I left you. I hope that you may

approve of the effort which I am making. If there should be any expressions which you do not like pray excuse them because I should be sorry if you were offended against me. If there should be anything further which you wish me to tell you or to explain—Pray let me know. I shall do it with pleasure.”

Then there is a letter to Mr. Gosford on the 27th of February about his sending his two dogs, “Piecrust” and “Spring,” about which we have heard so much, to Tichborne. Expecting at this time that the regiment would go to India, he sends his dogs to Tichborne, and writes to say he has “written to Mr. Thompson, to whose house they are directed, to give them a good feed, and to take them afterwards to the S. W. Railway Station”—I merely mention that for this reason, that from this time, February, 1852, “Spring” and “Piecrust” remained at Tichborne, and, of course, were just as well known by the people in that neighbourhood, as Tichborne itself. The learned counsel has pointed to this letter as showing the coarseness of Roger’s mind; because there is a reference in it to the possible misbehaviour of the dogs. If the learned counsel, whose reading is so extensive, had recollected what Launce says in the play, he might, I think, have passed that by without the severe criticism which he bestowed on that expression in Roger’s letter, which was a letter simply intended for Mr. Gosford, a passing joke, which ill deserved such severity of comment. Then comes another letter from Lady Doughty, on the old story—“Yes, dearest Roger be assured I am gratified and delighted with your private letters and I bless God for the change He is effecting in your dispositions, for it is His holy work—many a hard struggle you must have I know to conquer the bad habits of years and *very* strong temptations to return to *them*, but on these occasions if you ask the assistance of your *Heavenly Father* he will support *His child*—remember the Noblest work of God is *Man* endowed with reason given to govern all other created beings & above all his own passions, & wilfully to take away reason, by drink, to drown care is after all sinking a man to the level of a brute, instead of using the glorious faculty *reason* to look up to God for support against the temptations which in this life must exist.” There are other religious and moral observations upon the fatal effects of drink, which are very edifying, no doubt, but which I need not dwell upon. She speaks again about reading bad books and vicious stories, and with reference to an argument of his—I do not know when put forward—that because he had read every bad book and therefore knew every shade and refinement of vice, it could do him no harm to continue, she says: “This is a device of the Devil—we cannot let our mind dwell (as it must in reading a vicious story) on *vice* without more or less being tainted with it. A real horror and *detestation*, would make a person detest hearing of it and they could

not find pleasure in any subject that contaminates the mind and heart, and therefore would abhor and avoid such reading however beautifully written. This also may cost you much but it is *worth a struggle* & far best to turn over to a *new* life at *once*. And now dear Roger I can well indeed understand your feeling out of spirits, for years you have wished to go to India and thought of it *as a* pleasure—now it is so near many many must be the painful thoughts to quit in the present state of your family; some perhaps you can never expect to see again. Most ardently do I hope at least that God will bless and support you & make what to us all is a great *trial* turn to *your* sanctification & serve as a means to work out *your* salvation and save your Soul & ours also—From the move now going to take place in your Regiment I suppose we must expect your departure is not far distant—pray let us know and also when you go to Dublin.” Then she says, “Be assured how obliged I feel by your *own* expression that you hope soon to be all I could wish to see you. I have indeed prayed and longed to see you filled with Religious and noble feelings, and with steady habits, so that ALL around you hereafter may respect love and bless you—It is ordained by God that a wife should look up to her Husband, oh how deplorable the fate of that being whose life is to be spent tied to a man addicted to degrading vices, so dear Roger I trust to your sincerity you never yet have deceived me.” That looks as if she was at that time content that if the reformation of his habits should continue as it had begun there should be no obstacle thrown in the way of his marrying his cousin, if both should be of the same mind at the end of the probationary period which had been prescribed. He says in answer: “I am very much obliged to you for the confidence which you place in me. You may fully believe that what I write to you in my private letters is nothing but the plain truth. I have always acted in an honourable way towards you, I should think it a disgraceful thing especially as matters do stand at present”—observe those words—“to deceive you in any way about me. I am now, I am happy to say, quite changed for the better. I have given up drinking spirits altogether and I am besides very careful about what quantity of wine I drink. I moreover take care of myself which is a thing which I have never done before in my life. I am as you may fancy low in spirits, in mind. It requires a strong determination when a person finds himself low in spirits, not to take to drink as a relieve. It is not without a struggle that the good may have the best, but however I hope with the help of God to keep the promiss which I have given and to become in course of time what you wish to see me.”

Up to this time the troop to which he belonged had been at Clonmel. I have told you that when Captain Polhill-Turner was sent to Waterford from Clonmel, for some reason Roger Tichborne

remained with the incoming troop, which was Captain Morton's troop, the G troop. But in the month of October, between the 20th and 29th, he left Clonmel and rejoined the A troop to which he properly belonged. Here a question arises. The defendant has stated that when Captain Polhill-Turner left the regiment, which he did upon marrying one of the daughters of Sir Winston Baron of Waterford, Captain Bickerstaff, who had been the adjutant previously to getting his troop, came to take command of the troop, and that he, the defendant, as Roger Tichborne, handed over the troop to him. Now that is involved in considerable difficulty, There is no doubt that, although Roger Tichborne remained behind at Clonmel, he at some time between the 20th and 29th of October, rejoined his proper troop at Waterford, but he remained there only until the 14th December, when he got the leave upon which he went to Tichborne at the Christmas of 1851. He never went back to Waterford. Instead of rejoining the troop at Waterford he went back to Clonmel. We do not know why, but he must have had some order to go back there on the expiration of his leave, for we find him writing on the 14th of February, the day the leave expired, from Clonmel, and there he stayed, as far as we are aware, until the troop rejoined the rest of the regiment at Portobello barracks with a view to the regiment being converted into a light dragoon regiment for the purpose of their going to India. We find him on his march from Waterford to Dublin on the 15th of March, and on the 26th of March we find him settled at Portobello barracks, and, as usual, carrying on his correspondence, and it is in a letter of that date, which he writes to Mr. Vincent Gosford, that he relates the unpleasant circumstance which occurred at the Lord Lieutenant's drawing-room, of which he gives an account, certainly in very coarse language—a disgusting accident of a gentleman being taken ill, and what happened to two ladies who were sitting near him, which I shall not offend your senses by repeating.

Then there is a letter from Lady Doughty, in which she refers to one of his old fellow philosophers at Stonyhurst, namely, Mr. Swinton Berkeley, and to the report that a visit he was about to make to Ireland was in consequence of his being in love with Lady Emily St. Lawrence, one of the daughters of Lord Howth, and Roger in his answer refers to it himself. It is important only as showing that he remembered perfectly who Swinton Berkeley was, and must have had some knowledge of the Lady St. Lawrence, and must have known, consequently, perfectly well, having been acquainted with these people in Ireland, that Lord Howth's daughters would not be called either the Ladies or the Misses Howth, but the Ladies St. Lawrence. He writes to Mr. Gosford, on April 12th, "It is long since I last heard from Lady Doughty. I fancy that she must by this time be back from London. How did she and my cousin get through

the Queen's Drawing Room? *Pray let me know how things in general are getting on at Tichborne.*" That is always the burthen of his letters to Mr. Gosford. Let me know what is passing in the interior of the household at Tichborne. He writes also to Mr. Slaughter on that date, and says, "I should feel much obliged if you had the kindness to send me a copy of the draft to study by myself, so that I may fully understand it by the time I see you in London. I was quite surprised to see that you had been able to get those deeds from Mr. Burrow so soon, it is quite a wonder to get anything in the shape of a deed from those great lawyers under six months." He seems to know something about their habits, at all events. I call attention to this, as showing that not content with having sent instructions to Mr. Slaughter for the preparation of his will, he wants to have the will submitted to him before it is to be executed—"have the kindness to send me a copy of the draft to study by myself." Now there was then no Vincent Gosford at his elbow; he is at Portobello Barracks, Dublin, by himself; there is no one to make suggestions, or to prescribe to him this or that as something to be done—"Send me," he says, "a copy of the draft to study by myself so that I may fully understand it by the time I see you in London."

Then there is a letter, not of much importance, with this exception, that it was on a passage in this letter that something of the mathematical knowledge of the defendant was attempted to be tested. Roger writes to his Aunt on the 17th April from Dublin: "I arrived in my old quarters on the 20th of March after a very fair journey from Clonmel. I wrote to you when I was on the line of March—my letter was written in the beautiful town of Callow. Such a town I never saw You never saw anything like it. Built at the very tip top of a hill remarkably well exposed to the north and east winds. The only fine buildings in the place are the Barracks and a very large poor-house with more than four thousand tenants. I had a very bad bed made in a conical form and the sheets much too small for the size of the bed—it was with the greatest difficulties in the world that I managed to keep myself at the top of the cone and to keep on the sheets on me which were not larger than towels. After three hours work I went to sleep, when quite on a sudden I was waked by a gentle north-east breeze coming from the window, which was I must say anything but pleasant considering the lightness of my dress at the moment. It appears by what I could make out at the moment (it was then 3 o'clock in the morning) that during the time I was asleep the blankets and sheets had rolled in the middle of the room and I had gone the other way all by myself which was not pleasant by such a cold night. Those are the little miseries of human life. Travelling in Ireland is certainly very pleasant. I have not been out much since I arrived in Dublin. I went to the

S'. Patrick's Ball, it was very crowded but nothing to what was expected. Our Colonel and Major went there in the new Uniform which attracted as you may fancy great attention in the room I met there C. Bellew and S. Berkeley both having the Militia disguise on for the occasion Bellew has I am sorry to say broken his arm out hunting some time ago, he has not such a luck as I have. He unfortunately killed his horse at the same time, as a true sportsman he cut his horse's head off and brought it to Dublin to be stuffed wrapped up in brown paper to the great astonishment of all the waiters and housemaids at the Gresham Hotel." In a letter of April 22nd to Lady Doughty he mentions: "I saw Lord and Lady Bellew when they were in Dublin with C. Bellew, they were kind enough to ask me to go and spend some time with them at Barmethath but I was not to my great regret able to accept their kind invitation."

Now you know one of the tests supposed to have been supplied by the defendant to satisfy Mr. Hopkins of his identity was a letter he wrote to that gentleman having reference to a Miss Bellew in Ireland. The only persons of the name of Bellew who are mentioned in Roger's letters at all are Lord and Lady Bellew and their sons and daughters, and there could not be any attachment or intimacy on the part of Roger with Miss Bellew without there being some communication or some intercourse with the Bellew family. So far as I can make out it was only in Ireland that he could visit them, and only on one occasion that he actually did go to Barmethath and make a visit there. On the occasion of this last invitation he could not get leave. He further says: "I have also seen S. Berkeley, I don't know if his visit to Ireland was only caused by his love to Lady C. St. Lawrence, I think that his love is what is generally called *l'amour qui presse*, I don't think he has yet succeeded in catching *l'amour qui reste*, that one is a little more difficult to find out than the other."

A subject now turned up again which was a very sore one with him: his uncle again wished to get him to consent to the sale of Upton, and Mr. Gosford had been commissioned by the uncle to write to him on the subject. He writes a private and confidential letter to Mr. Gosford, in reply, and another letter which was to be shown to his uncle. In the private letter he uses very strong language. "In reply to your letter which I received few days ago, I have only to answer that I never heard of a family where selfishness (excuse the expression) is kept on with such a wonderful perseverance. I never could have thought that after having granted to my family all what they have asked of me in deeds and settlements they would repeatedly come and annoy"—written with one "n"—upon the subject you allude to in your letter. I never could have fancied that they would shrink before the trifling expence of a few

hundred pounds after all the money which I have allowed them to raise upon the property, for which I derive no benefit whatsoever but the pleasure and trouble of paying for it. But, however, as the old saying is, the best school for knowledge is experience. I hope, in future, to act upon my first one. I have enclosed in my letter a copy of the note which I found in yours. I dare say that you will find few improvements, but it cannot be helped. I heard this morning a report that we were to give up our horses next week. May the report prove true." "P. S. Pray let me know by return of post what effect my letter has produced." Then this is the letter which was to be shown. "Dublin, April 30th, 1852. My Dear Sir, In reply to your letter which was written by my uncle's wish, I cannot but express my surprise to see a subject alluded to which I had every reason to believe had been settled about a year ago when the settlements were talked over. I agreed that the heavy debts which were on the Upton property should be charged on the Doughty Estates"—that is the 13,700*l.* which still stood on mortgage—"Why, if it is let it is no expense, but in all cases it is not a very expensive place to keep. I am very sorry that I find myself under the necessity of stating that it is not my wish, and that I cannot give my consent to have the place sold." Afterwards, writing to him, he says: "I have long been expecting a letter from you to let me know what effect my last letter has produced. I don't think if I can judge by appearances that I shall be again troubled on the same subject." That is about Upton.

It appears that about this time he had had some illness. Lady Doughty, who was at that time in London, writes to him from the York Hotel, Albemarle Street. "As by a letter from your father forwarded to-day to me from Tichborne, I am aware he has written to you respecting your health I now write also, for I waited for this, for alas! I was well aware also of the report that you have had another attack of your chest and that the surgeons think India will be most dangerous if not fatal—do dear Roger let me know the *real truth*, for you know well both my solicitude and love for you, do then tell me really and write directing here to me, for we possibly may remain longer and at any rate till next Tuesday. I assure you the thought of you damps feelings of gaiety, though there is much going on in town, and we had required a little change of scene, though I am happy to say I left your uncle much improved. I cannot express how anxious I am to hear from you and what you intend to do?" This seems to have irritated him. Nothing seems to have exasperated him so much as people saying anything about his health. Whether he thought his aunt coupled his ill health with bad habits I do not know. He writes on May 16th to Gosford: "My dear Sir,—In reply to your letter which I received yesterday, I have only

to answer that it is very disagreeable that persons should go and write to my father and mother about things they know nothing about, and throw by what they say in their letters trouble and anxiety in their minds. I am sure that if D^r. Brown—he seems to have thought that Dr. Brown, who is, I believe, now a Catholic bishop, was the mischief-maker, and kept his aunt informed about things appertaining to him which he would have wished left unknown—“I am sure that if D^r. Brown instead of writing about persons and things he knows nothing about minded his own business it would be by far better in every respect. I fully intend writing to him as soon as I have been able to find out his direction to inquire who has given him right to write about me, and in future if he fancy doing so to try to get some better information. (If you would give me his direction I would feel obliged) It is wonderful that I have very seldom come within the reached”—instead of “reach”—“of a priest or Bishop that they have not done me some mischief or other. It is one of the reasons why I so very seldom go near one. *It is fully my determination to go to India with my regiment.* I have written a letter to my father in answer to his to that effect and moreover repeating that my mind was so fully made up upon the subject that I wished the subject not to be mentioned again. I hope that my letter has been understood and that I shall hear no more about it.” In the same way he writes to his aunt: “In answer to your last letter which I had the pleasure of receiving yesterday I have only to answer that I regret very much that persons who spread those reports about my illness have not taken the trouble to get better information. I had it is true an attack similar to the one which I had last year at Waterford, but not by far so severe.” Captain Polhill-Turner, you recollect, told us that when with him at Waterford, between November and December, he had a bad attack, for which he was bled—another of the instances in which they took blood from this young man, who had none to spare. Then he says, “It was caused by my stomach being out of order.” That was referred to as a coarse expression, to be placed in the same category as the celebrated letter of the defendant about Rous’s pill, which I dare say you have not forgotten. It does not strike me in that way. When a man has been thought ill, and he is asked about it, and he says, “There is nothing serious the matter; my stomach has been out of order”—I hope I have as much delicacy as most people, but it does not strike me as it did the learned counsel that there is any coarseness or indelicacy in the expression—He goes on: “The Doctor gave me some physic which I was in want of, and which got me all right again in the course of two or three days I know the person who has taken so much trouble spreading the report about If I knew his directions I would write to him to request that

in future if he takes a fancy to write about me to my Father, he will take the trouble of getting better information before writing and not throw my Parents in such a state of anxiety about me without any justifiable cause. I am sorry my Dear Aunt that my ideas of leaving the Army or staying at home do not coincide with the one of my Father and family, it is fully my determination to go abroad with my regiment. I have written a letter to that effect to my Father some time ago in answer to his last." In like manner he writes to Mr. Danby Seymour, who had also written to inquire about his health, and writes in the same angry way about the person who had set the reports going. Then he says: "Dublin has been remarkably gay for the last three weeks. I have been to balls and parties almost every day during that time. I have met a great many persons who I knew when I was quartered in Dublin before which made it very pleasant for me." This shows that at the time of this second visit to Dublin he was entering into society with the alacrity and sense of pleasure which society and amusement generally gives to a young man. Then there are some more letters of Lady Doughty's of the same kind as her former ones; but up to this time, the middle of 1852, I see very little to show that she was at all hindering him from entertaining the fair and reasonable hope and expectation which his uncle's consent to the engagement between him and his cousin had been calculated to engender in his mind. The last letter I have from Ireland is dated May 31st, which is the day before the regiment left Dublin for the purpose of going to Canterbury. He writes to his mother, who also had been writing to him about his health: "You ought not to make yourself unhappy about me I enjoy a very good health, I am very sorry that Dr. Brown before writing to you did not take the trouble before writing of getting better information, I have had the opinions of the very best doctors in Dublin and they all told me that there was nothing whatsoever the matter with me, so I wish my Dear Mother that you set your mind at ease about me." Then he says: "I have not been able to see Lady Bellew since I received your last letter, she has not been in Dublin for some time. I went some time ago to spend the day with Lord and Lady Bellew at Barmeth. They had the kindness to ask me to spend some time with them there, but I was sorry not to be able to spend more than a day there. I was sorry that you have not been able to see Edward Bellew, he is a nice sort of young man. I have been lately to a great many balls and parties, which has made my time pass on rather quickly." Then he says: "I hope that you feel yourself better at present and that you take more care of yourself. It is certainly a great misfortune that you will not take any of the doctor's advice, in your state of health you would find yourself by far the better from it. I shall write to my father soon after my arrival at Canterbury,

we will be some time to arrive there as we are going all the way by sea which will take us two or three days. We are to land at Hearne's bay which is the nearest port to Canterbury it is only 7 miles distance."

Herewith closes the Irish correspondence. You will form your own judgment as to whether the letters received from Lady Doughty in answer to his own on the subjects to which those letters related are such as would be likely to leave a lasting impression on the memory of the man who received them. It strikes me as being one of the most important questions in this case. His memory must have been either very bad naturally, or have been one upon which, as it seems to me, time or circumstances must have made sad inroads, if that correspondence could be so entirely obliterated from it as to leave no trace behind. Of that you will form your own judgment. It certainly is a striking fact that the defendant on his cross-examination exhibited total ignorance of a correspondence of this nature.

Removal to
Canterbury.

Gentlemen, we have now done for the present with the life of Roger Tichborne in Ireland, and I come to the second branch of his history as connected with his time in the army, namely, the time he spent at Canterbury. He arrived at Herne Bay on the 4th of June, having left Dublin on the 1st, and marched immediately for Canterbury. Up to that time it had been thoroughly understood that the regiment was to leave England; they had been converted into light cavalry, the horses had been sold or drafted into other regiments; the men too heavy for light cavalry had been drafted into other regiments; those not fit for service in India had been got rid of. On their arrival they were informed that the order for India was countermanded, and that the regiment was to remain in England. The horses were to be got back, the men who had been drafted into other regiments were to return, and the regiment was to remain as it had been, a regiment of heavy cavalry. Immediately on his arrival at Canterbury, Roger is greeted by a letter from Lady Doughty, who begs him to come and see them at Tichborne; she says that she and her daughter are about to go to London, but that they would make their arrangements subservient to his; so that all things seemed pleasant and smooth in that quarter. He wrote on the 5th to say it was impossible for him to say when he would be able to obtain leave; but begs it may not interfere with their movements; "I should be sorry," he says, "if my movements interfered in the least with yours." Then Lady Doughty writes to say they are coming to London, where they have various engagements, and trusts he will come up to town to see them; and he does so. He is in London on the 8th; and the first thing that appears to have occupied his mind after his arrival at Canterbury, was the completion of his will. He writes to Mr. Gos-

ford on the 9th of June—"It is some time since I last received a letter from you. I went up to London yesterday. I went to see Mr. Slaughter. I settled with him all about my Will. It will be ready for my signature on Monday, the 14th of this month. An order came this morning for us to get back our horses, we are not it appears to go abroad for two years, at least all the volunteers are to be sent back to their reg^{ts}. It is undoubtedly the greatest shame I ever heard of, after having been put to such an expense. We have been obliged to sell our horses to get the Indian outfit. Now what are we to do with all that I cannot say. I have nearly made up my mind to exchange and go abroad for two years and leave the army at the end of that time. I have been since I came to England in a great state of mind. I don't know what to make out of all this. I don't know what to do, to go abroad, stop in England, or leave the army. I am really disgusted with all this. I don't know what on earth to do. I shall nevertheless make some enquiries about an exchange." On the 10th he writes to his aunt and says, "I have not been able to obtain leave on Monday to go to the ball as I wished on account of that day being the 14th"—It was the night of the Caledonian Ball, and they wanted him to come up to it—"I have nevertheless forwarded my application for leave from the 15th to the 22nd of this month. I have no doubt that I shall obtain it as the Colonel will forward it to night. I have been obliged to apply for leave sooner than I intended on account of the horses coming back to us towards the latter part of this week. When the horses will be back it will be quite impossible for us to obtain any kind of leave whatsoever." That is an observation to be noted, because it shows us he is not likely to have been away later than the time when his leave from the 15th to the 22nd expired.

He was in London on the 9th, and saw, of course, Lady Doughty and his cousin; and it is evident from a letter I am going to read to you, that he must have had some conversation with Lady Doughty on the subject of her daughter. Whatever may have been her state of mind at the commencement of the year, when the scenes of January and February took place, it seems that at this time Lady Doughty desired to oppose and prevent the marriage if she could. She had heard reports about Roger that were not satisfactory to her, and though she was not prepared to break the thing off, she seems to have been desirous that it should remain on this uncertain footing: that while Roger should pledge himself to be ready to marry his cousin if at the prescribed time his cousin's mind should be in the same state, yet it was to be perfectly understood that Miss Doughty was under no pledge whatever, and that if any eligible offer should present itself from someone else, Miss Doughty should be at liberty to accept such offer. I cannot help thinking that Lady Doughty

had the wish in her mind, although she may not openly have expressed it, that some better offer might present itself. She was very fond of Roger, and loved him with a sort of motherly affection, but she had no confidence in him. At the same time she was not prepared to break off with him altogether; on the contrary, in case her daughter should not change her mind, and at the end of two years Roger should show that his conduct was such as that she could have faith in him, she wished to keep him in reserve. She reasoned thus: "If Katharine does not find anyone she likes better, and her affections continue to be fixed on Roger, and we are satisfied that Roger's conduct gives confident expectations of his leading a steady life in the time to come, well and good; but if in the mean time Katharine should see somebody whom she should like better, so much the better." That, I think, from the two or three letters I am about to read to you was plainly the state of Lady Doughty's mind: she was playing fast and loose with poor Roger. Mothers, we know, where daughters are concerned, will sometimes diplomatisé, as Roger afterwards calls it. What she wanted to do was to hold Roger in reserve, while Miss Doughty should be unpledged, if any other eligible offer should present itself. Thus Miss Doughty would be left without any distinct pledge, and her parents would be equally free from any pledge, so that they might be at liberty to withhold their assent to the union of the two cousins. Lady Doughty writes to him at Canterbury a letter of the 11th of June: "I have had such a succession of Visitors to day that I can scarcely find time or *head* to answer you as I could wish, but let me first *entreat* you not to take any step in a hurry, but thoroughly weigh over every reason *for* and *against* so decided a step as an exchange which would throw you completely back in your career in military life." At this time the order for the regiment to go to India had been countermanded. Roger still proposed to go to India; either he was possessed with the idea that rather than let him go to India they would consent to the marriage immediately, or he desired it to pass the time in the interval, or to drown the sense of his disappointment in active service and the sight of foreign lands.—She continues: "The chances are greatly in your favour with only two above you that you would soon have your company, so do NOT *hurry* into a step you may regret. Now *once for all* never think I can be offended by your asking me any questions, I love you too sincerely, my heart did bound with joy to see you again after all I have suffered with the thought both of your illness & of perhaps having to part for life—therefore I could not but feel joy when your Regiment was stopt & I saw you again. Now to answer your questions as to our being reserved to you? & secondly as to the Reports I have heard"—She had heard things I suppose to his disadvantage, and he had asked her what were the reports she

had heard—"I feel the difficulty of answering because we are all in a false position towards each other which ought to be cleared, no party really knowing the *exact position* or *present feeling* of each other nor can this be cleared partly by anyone but yourself—& my part is not *difficult* & I must now trust to your *honourable* feelings & write the truth. The world has given out so decidedly that you and your cousin are engaged, that though we contradict it (for you know there is no Engagement)"—There was no positive engagement, it is true, but there was what we lawyers might call a *quasi* engagement, a sort of conditional engagement, that if both were in the same mind two years hence, and there was no objection against Roger personally, the prohibition should be withdrawn. It was not an engagement, but something very like one; though Lady Doughty, in point of exact language, was entitled to say there was no engagement—"still it has prevented any one coming forward & in fine the report has met us every where & must perhaps have caused reserve. Now in reality neither of *you*"—that is, neither he nor her daughter—"have made up your minds to any final decision"—I should have thought from what Roger has written, and what Miss Doughty, now Lady Radcliffe, has told us, that if they had been left to themselves they would not have been very long in coming to a final decision—"But now in reality neither of *you* have made up your minds to any final decision but it would be but sincere & honourable & a guide if you candidly told *me* (*in confidence*) your wishes"—that is to say if you will tell me that you desire to marry my daughter and will marry her at the end of the time prescribed if she is willing and we consent—"Recollect however that we have no reasons as yet to think that the resolutions against drink have been kept if any *persons* or *circumstances* have power to draw you into it; moral courage should rise above the temptation." Then she goes on to the subject of reports. "I have no reports to repeat more than of course your illness has been said to have been caused by smoking & the usual attendant *drink*. You deceive yourself I fear & in reality take more than you think—be that as it may, without a real religious feeling to guide you, you will throw life away & ruin your own happiness in this world & in the next. Still dear Roger, tho' your constitution has received great shocks—a *resolute* change of habits might save you, but it must be, be assured, *entire change*—it is a *crisis* in your life—do reflect, and when you speak to me do it *openly* & *sincerely*—this I feel your own sense of honor should dictate & then be assured I am your affec^{ate} Aunt & sincere friend KATHARINE DOUGHTY. When you write or speak to me it should be without reserve & perfect candour; the future is too much at *stake* for mystery." Now, all this language I understand to mean this: explain yourself perfectly to me that I may thoroughly understand you, and that you may stand

pledged to me; but observe, we do not at present at all admit that the conditions have been fulfilled, or that we are under any pledge to you.

Then he writes this letter in answer on June 12th: "My Dear Aunt I shall do all that I can to answer your last letter which I had the pleasure of receiving this morning with the same confidence which you have showed me and for which I feel very grateful. You may rest assured that whatever confidence you may place in me is quite safe and that I shall always do what I can to make myself worthy of it. I don't know what has given rise to the different reports to which you allude to in your letter."—One of the curious peculiarities of Roger Tichborne is the use of the preposition at the beginning of the sentence and the end of it. He might have adopted one of two ways of writing. "I don't know what has given rise to the different reports to which you allude in your letter," or "I don't know what has given rise to the different reports which you allude to in your letter," but Roger Tichborne constantly uses the preposition both before and after, and he does so here.—"I have never told anybody whatever what engagements might or might not exist between me and my cousin. I have certainly my reasons for suspecting some persons who spread those reports about for the sake of doing mischief. But persons who take so much trouble in meddling in other persons business are those, generally speaking, who know less about it. It is I must acknowledge rather disagreeable for you and for another person"—that is, of course, Miss Doughty—"For my own part it is not so much so. I must confess my mind is fully made up and I am quite ready to hear anything for or against it, because I am fully aware what persons who spread reports of that nature are worth. For my own part My Dear Aunt I have told you last winter I dare say that you have not forgotten the day (January 4th 1852] what I said on that day I had been long to think about it and to take my final determination. I studied my own heart and feelings. I saw quite plain that I had habits which you or any body else could approve of"—the "not" is left out; it should be "could not approve of"—"I knew quite well that I had strength of mind to correct those bad habits, though the task was not an easy one, but I thought twice over before I could make my mind up to let you know what my feelings were (I think it more honourable to acknowledge my own faults though it is to my own confusion). When I was quartered at Waterford all by myself with some few Infantry officers we did not know what to do with ourselves all day long, so when we used to assemble together in the Evening we used to drink very hard only for the sake of spending the time for nothing else. It brought on me, as could be expected, a violent illness which not being properly cured came back again when I was in Dublin."

Remember, his stay at Waterford preceded his visit to Tichborne in the beginning of 1852, and therefore the transgression he speaks of there, drinking to excess, was before he made that promise to his cousin. "Since I came back from leave it has been my daily study to try to improve. I don't drink any thing to what I used to drink formerly. I have I can say improved in many other respects. What has taken place during the latter part of the time which I spend at Tichborne you will, I dare say remember it so as to make it unnecessary for me to write it over again. What affection I have felt for my cousin when I was at Tichborne instead of decreasing are much stronger than they ever were. Whatever the case may be now or in the future I shall always be but too happy to do anything to please and oblige her in any way which I have it in my power though I shall be most likely far away very soon. If you hear any more reports going about you may rest assured that they never come from me. But however my Dear Aunt I am in hopes of making an exchange in the 12th Lancers at the Cape of Good Hope before long. I shall remain there most likely two if not two years and a half—If my Cousin has not changed by that time, then what can be done will be decided at once—I hope and trust My Dear Aunt that you think that I have acted in an honourable manner at least such has always been my wish. As I am not yet very sure of being in London on Tuesday if you answer me it will give me much pleasure, or if you like better to wait till I come but do as you please. If you wish me or if you like to give out yourself any final decisions about me and my Cousin, I shall do so, or you are at liberty of doing it yourself, but however I leave all to you. I hope and trust my Dear Aunt that I have not offended you. If I have done so I am very sorry for it. I rely on your word of honour to keep every word contained in this letter a perfect secret to every body and moreover to burn the letter as soon as you have read it." Now he does not give there a specific answer as to what his intention is or what he will pledge himself to with regard to marriage with his cousin, but he says, "you know perfectly well what passed when I was at Tichborne at the commencement of the year: I then explained my feelings to you and I refer you to what I said then. You are at liberty to give out any final determination you please to the world that my cousin and I are engaged, or I will do it if you like."

On the 13th he writes to Gosford about his will. "I went to London last Wednesday for the day"—that is the 9th—"I saw Mr. Slaughter. I read my will over with him. I was certainly much pleased with it as it expressed exactly what I wished. It will be, I am happy to say ready for my signature on Tuesday"—that would be the 15th of June—"It will be a great comfort to me when that deed will be signed and settled. I saw Lady and Miss Doughty

when I was in London. My Cousin seemed to enjoy her stay in Town very much." Then he says, "I had not time to call on any body but the Seymours I had much business to do." Then he talks about other things in town, and he tells Gosford to send his letters to Lady Doughty at the York Hotel. "I shall always be sure to find them there. I am at present in that happy state of mind that I don't know what to do. I tried to get an exchange few days ago but I could not succeed in it."

So matters stood when he came up to London on the 15th of June. Lady Doughty had come to town with her daughter for a little amusement, and Roger appears to have accompanied them on all occasions, going with them to places of public entertainment, and going out with them of an evening. Everything seems to have passed most agreeably and pleasantly. I daresay Roger did not entertain the least apprehension of having his relations with his cousin brought to the speedy termination which was shortly afterwards to ensue. He was to have stayed in town till the 22nd, his leave expiring on that day. But on the 19th there came sudden tidings that Sir Edward, who had remained at Tichborne, was taken seriously ill, and the result was that the stay in London was brought to an abrupt termination. It was necessary that Lady and Miss Doughty should return to Tichborne; Roger was asked to accompany them and stay there the remaining two or three days of his leave; accordingly, on Saturday the 19th, they went down to Tichborne. It turned out that Sir Edward's illness was not of the serious nature apprehended, and he very soon got better. They arrived there on Saturday the 19th. Roger stayed Sunday and Monday, the 20th and 21st, and on the 22nd he left Tichborne. One of the questions in this case, and an all-important one, is, whether he ever set foot within the walls of Tichborne again. There is the oath of Lady Doughty, Lady Radcliffe, Mrs. and Miss Nangle, who were staying in the house at Tichborne, and of Mr. Gosford, who was at Tichborne every day, and knew who was there and who was not there, that he never went back to Tichborne after that day, the 22nd. You will have to make up your minds on that point. The defendant has stated that he was there either in July or August. As to that you must judge from the evidence of the witnesses I have just been referring to, and the correspondence, which is of very vast importance in respect to this question.

But a very important matter occurred during Roger's short stay at Tichborne. It seems that the two cousins thought it desirable that an attempt should be made to persuade the father not only to allow the subsisting relations between them to continue, but also to abridge the probationary time, till the expiration of which the union was not to take place, and to allow them to marry at once. Probably, if they

had married at once, Roger would have given up all idea of going to India or anywhere else with his regiment, or of exchanging into any other regiment; he would have left the army. But Sir Edward Doughty was firm on the point. Very likely he spoke to Lady Doughty, who took good care to keep him up to the mark, and his answer was that they must wait. Lady Radcliffe has given us her account of what passed. She says that after they had spoken together, Roger applied to her father to induce him to withdraw his prohibition and consent to their marriage at once, but he refused. I take for granted that some conversation must have taken place on the subject between Roger and Lady Doughty, and that Lady Doughty must have given him a promise to write to him more fully on the subject, and that this led to the letter of the 1st of July to which I am about to call your particular attention. Until this evidence was given by Lady Radcliffe, and I was aware of the fact that Roger Tichborne had made a further application to his uncle to abridge the period of probation, and to consent to the marriage at an earlier period, I confess I was unable to understand the letter of the 1st of July, but with that explanatory evidence the letter becomes perfectly intelligible.

Lady Doughty at this time was unwilling, I cannot help thinking, that the marriage should ever take place. It went against the grain with her. Still Sir Edward had given his conditional assent, and if Roger had waited the prescribed time, and when his cousin came of age she had said, "I still love Roger, and still desire to marry him," and if Roger had continued to lead a reformed life with reference to abstinence from drink, in all probability the marriage would have taken place; but by seeking to precipitate things Roger only defeated his purpose, and brought disappointment on himself; for Lady Doughty, seeing how fast he was desirous the thing should go, interfered, and used her influence with Sir Edward, and not only put an end to all notion of a marriage at an earlier period than had been fixed, but while she wanted Roger to give a more express pledge than he had given in the prior letter, distinctly gave him to understand that his prospect of marrying her daughter was altogether a precarious one, and that while on the one hand he was to pledge himself, her daughter was to be at liberty to make choice of any one else if she saw any one she preferred to him. Before he left, and after the interview with his uncle, Roger must have had a conversation with his aunt, which I dare say was not a very favourable one; but still, not having his hopes so crushed as they were by the subsequent letter, he produced and gave to his cousin, while walking with her by the water-side, as she described to us, the paper of the 22nd of June, in which he records a second time the vow to the Virgin to build a church in her name and honour, in the event of

the union with his cousin taking place. No doubt whatever can be raised as to the genuineness of that document; and it tends to confirm what Gosford has told us as to a similar document having been left with him in the early part of the year.

Leaving Tichborne on the 22nd of June, Roger returned to Canterbury. According to the view last propounded by the learned counsel for the defendant, but which certainly was not the original statement of his client, it was on the occasion of this visit between the 19th and 22nd that the seduction of his cousin took place. For this he refers among many other things to a letter written by Roger upon his return to Canterbury. He says that Roger, having seduced Miss Doughty, was, of course, in a bewildered state of mind, and that that state of mind is shown by what he wrote immediately afterwards on his arrival at his quarters. On the 26th he writes thus to his aunt: "I have been in such a state of confusion ever since my arrival at Canterbury that it has been quite impossible for me to write to you." This, says the learned counsel, was a state of confusion arising from the disorder into which his mind had been thrown by the consciousness of having committed a great crime, of having sinned against hospitality, and against honour; after which it is not to be wondered at that he was in a state of confusion! If the learned counsel had turned over the page and come to the next letter—I do not know whether he did—it is a pity if he did not—he would have found that there the confusion becomes perfectly explained. Not that it ever occurred to me or would have done so, I think, to any right-minded person, that the "confusion" spoken of was confusion arising from the cause to which the learned counsel referred; but the next letter clears the matter up. He writes on the very same day, the 26th of June, to Mr. Vincent Gosford, excusing himself in like manner, for not having written an account of this state of confusion. Confusion from what?—"I have been ever since my arrival in Canterbury in such a state of confusion"—exactly the same words—"on account of changing my quarters"—not confusion of mind, therefore, but confusion of furniture, boxes, and things which had arrived from Ireland and were being set to rights; arranging stables for his horses and things of that sort. If the learned counsel read that second letter I can only say I do not think it was consistent with forensic propriety to refer to the first, which is capable by possibility of a twofold interpretation, and to omit to refer to the second, which clearly explains what was meant by it. The letter to Gosford is as follows: "I have been ever since my arrival in Canterbury in such a state of confusion on account of my changing my quarters that it has been quite impossible for me to write to you sooner to enquire how things in general are going on at Tichborne. I am in hopes of hearing from Lady Doughty

soon. I hope that she won't show too much diplomacy in her letter: things are much too near a crisis for it, and, moreover her ladyship is rather a poor politician. I can see through it quite clear as most likely you can without much difficulty. I should feel obliged if you had the kindness to answer me by return of post to let me know how things stand at present, as it is of great importance to me at present." At the end of that letter there is a passage on which Dr. Kenealy enlarged much. He says, how could this man have any love for his cousin? He had just left her society, and he writes to Gosford to send him a French work which he says he bought in London and had forgotten at Tichborne. The work is called *Mon Voisin Raymond* in four volumes. "You will find it in my sitting room." Now, says Dr. Kenealy, *Mon Voisin Raymond* is one of Paul de Kock's novels; being one of Paul de Kock's novels it is, of course, an indelicate and immoral work. I do not know. I dare say the learned counsel knows better than I do, if it is such a work as he describes. I have not read it.

By a JUROR: Was not that one of the books he read an extract from?

THE LORD CHIEF JUSTICE: I think that was from *Frère Jacques*: I am not sure. At that time Roger Tichborne had gone away believing that although he was not allowed to marry his cousin at that time, yet the time would come when there would be no reasonable or just cause to prevent his marrying her if she did not change her feelings towards him. Perhaps it would have been better if he had passed his leisure moments in thinking of her, or reading better books than *Mon Voisin Raymond*, but I do not know that we should assume that because a young man reads Paul de Kock in his leisure hours, and finds some amusement in the racy humour of the author—for though that humour is contaminated by coarse indecency, still the humour is there, Paul de Kock being spoken of as one of the most humorous of writers—I do not know that we are to assume that such a man is thoroughly unprincipled and profligate, which is what the learned counsel has sought to put into your minds. You must judge.

On the 30th of the month Roger writes again to Gosford: "I don't know what is going on at present at Tichborne. I have not heard from that part of the world since I left. I don't intend writing there again till I hear from Lady Doughty. I feel very anxious to receive a letter from her because I am at present at a stand still which is not pleasant." This passage seems to show that he had been led to expect a communication from Lady Doughty, with reference to what had recently passed at Tichborne. Lady Doughty

had evidently promised to write to him what were the views of her husband and herself on the subject of his marrying at an earlier period than the time which had been named. This she does in her all-important letter to him of the 1st of July. "I thank you for your kind letter and should have answered immediately, only your uncle wished for full time to consider over all that has passed"—that is what had passed at the commencement of the year and what had passed at their recent conversation—"and though it is a painful task to write what may give you pain, it is no use delaying longer without telling you what he says"—Now what is it that he says—that Roger must give up all hope and at once put an end to all idea of marrying his cousin? Not at all, but—"he sees no reason to change from the decision he made during his illness"—that was when he was ill in the month of February—"that of not giving consent till our daughter was of age, and that she must be at perfect liberty to marry any person—in fine that no engagement whatsoever should take place between you—added to our considering her too young to decide upon a choice that involves going contrary to the wishes of parents (we presume on both sides) and which is against the rules of the Church." There, she might have stopped, but she goes on:—"You have not given any real proof of changing habits that have been the cause of endangering your life by bringing most serious illnesses and which unless resolutely and determinately given up will certainly bring on a return of the same illness. Now without a long continued proof of these bad habits being entirely conquered, no Parent, (even if there was no relationship) would think themselves justified in giving their child to a person, who neither from a sense of duty to God or the attachment to their child could conquer habits that would be the ruin of the happiness of both. These then are our objections, and it is best you should clearly know them. You ask that our child should have permission to write to you"—this must have been at the interview and conversation which had taken place at Tichborne just before—"we certainly see great objections to this, for being under age she cannot act without the consent of Parents; therefore the less communication you have under these circumstances the more free it leaves both. Now dear Roger though I have fulfilled the duty that devolves on us, you are of course at perfect liberty to act in this matter as you consider best for your own happiness"—I suppose she means—as your future union is thus uncertain you may, if you please, say at once, I will be off the engagement; if my cousin is not to be pledged to me, I will not be pledged to her—She goes on: "I only ask that you will write and tell me your decision, after you have well considered over this letter, and that you will not take any precipitate measure, but write clearly your own views in a letter that may equally be read by your Uncle as

well as myself—In this letter I cannot write on any other subject.” In effect she says, write and tell me frankly, explicitly, unmistakably, what you intend to do: say “off,” and there is an end to the matter; but if, on the other hand, you are not prepared to put an end to the conditional engagement which exists, tell me distinctly that you intend to marry my daughter at the end of the time. But you must understand this: although you may pledge yourself—and I beg you to tell me as an honourable man what your views and intentions are—understand that your marrying my daughter depends on her continuing in the same state of mind as she is at this moment;—that she is in the meantime to have the freest and most unlimited scope; that no engagement is to be given out to the world; if anybody comes to pay his addresses to her, and if she likes him better than you, she is to be at liberty to accept him; and supposing she should remain constant and unchanged in her affection towards you, it will still depend on our being satisfied of the reality of your reform, whether we shall consent to her union with you in marriage.

Of course Roger felt that these were very hard and very unfair terms, and while Lady Doughty puts forward as one of the reasons for insisting on these hard terms, that he had not given proof of reformed conduct, he resents this and complains that she should have listened to the statements of anybody against his word of honour given and pledged as a gentleman, which word, he says, he had strictly maintained up to that time. He is very angry, and very much pained: he writes thus to Mr. Vincent Gosford on the 2nd July: “It is quite plain, if I can judge by a letter which I received this afternoon from Lady Doughty, that she has at last gained her point. I was sorry to see in her letter some remarks to which I never thought before I was entitled to. It is the first time, so far as I can remember in such an instance as this, when mere reports were believed in preference to my word of honour. If persons who take pleasure in spreading reports of that nature had anything honourable in them they would not take such a care to hide themselves. As I am in hopes of making an exchange into a regiment on foreign service very soon, I should feel greatly obliged if you had the kindness to send me at your earliest convenience a list of all the things which I have at Tichborne that I may judge what is fit for me to take abroad, and do away with the rest, as it is not my intention to go back to Tichborne for a long time to come.” Now it is quite clear that between the 22nd June, when he left, and this 2nd July he had been the whole time at Canterbury. It is certain he had not been again to Tichborne; and he now says distinctly “it is not my intention to go back to Tichborne for a long time to come.”

About this time the election for Poole was going on, and Mr. Danby Seymour wrote to him to come there. The election being a

close one, Mr. Seymour, thinking that as the future proprietor of Upton he might have some influence with some of the electors there, wrote and asked him to come and help him if he could. Accordingly he got leave for the purpose and went. On his return from Poole he thought that if he gave Lady Doughty information of his passing through Winchester, which he would have to do on the way from Poole to London, she would very likely come over and see him, so that he could have a talk with her before he answered that letter of the 1st July, and that he might possibly bring her into a more favourable frame of mind towards himself than had been the case when she wrote the letter. He writes to her from Poole on the 7th July, "My dear Aunt, I shall sleep at Winchester to night on my way to London. If you could let me know if you are coming to Winchester tomorrow I shall wait because I know that I can make more"—he uses the word "make" for "do"—"in half an hour's conversation than in a week's correspondence. Believe me, My dear Aunt—Your affectionate Nephew R. C TICHBORNE. Pray don't be offended at what I have said, but I don't wish to go back to Tichborne for a long time to come." He also writes to Mr. Gosford: "I have obtained few days leave to see H. Seymour. I am leaving this evening, I shall sleep at Winchester on my way to London. I should feel obliged if you could come and see me tomorrow morning at the White Hart at Winchester as I am very anxious to speak to you about several things, among others, about my things which I left at Tichborne. I wish I could speak to Lady Doughty if it were possible, but at the same time I don't like asking to go there, still, at the same time, I know that I could do more by half an hour's conversation, than by a week's correspondence. If you cannot come, send me a note at the White Hart." He stopped at Winchester on his way. Somehow or other Lady Doughty missed him, and having waited till the next train he went on, thinking she did not intend to come. Thereupon she writes to him: "How could you go on after your letter? Of course I started as soon as possible after breakfast, and arrived soon after 12, truly grieved then not to find you & not knowing in what state of mind you are or why you went to Mr. Seymour, for since my letter a week ago I have not heard from you till *to-day*, these few lines. In total uncertainty of your state of feeling I can only say that had we met I must still have referred you to my last letter, as Sir Edward's opinion remains unchanged;"—that is to say as to their waiting for the time which I have called the probationary period:—"pray if you cannot write or *speak* openly, write to Mr. Gosford to *tell us*; the report is now so widely circulated that it must reach your Father's ears & therefore would it not be best for you to let him know your real feelings"—Gentlemen, you will observe from this that up to this time his father had not been made acquainted

with what had passed between him and Sir Edward and Lady Doughty upon the subject of his proposed engagement with their daughter.—“Be assured that beyond the duty we know we owe to you & to our child, that on any point you will ever find both your Uncle & myself sincerely attached to you & I am Y^r affec^{ate} Aunt.”

He next writes to her in answer to her letter of the 1st July. There is no date, but it is evidently an answer to that letter :

“M. D. A.”—which means my dear aunt—“I have perhaps delayed long to answer your letter received last Friday, but I am sure you will excuse me when you think that I have to answer on a subject which requires much consideration before answering in a manner which can be satisfactory to you as well as myself. You have alluded in rather a strong manner to bad habits which I had—I acknowledge to a strong degree last year, but I have told you (and I believe that you can believe me) that it has been my daily study ever since the beginning of this year to break myself of, from those habits which were not all what I ought to have, especially in my future station in life. I should feel sorry M. D. A. if you thought that I kept my C”—Cousin—“under any kind of Engagement towards me; if she thinks for a moment that she can be happier by marrying somebody who she fancies let it be so. I have always been uncommonly fond of my C (as you perhaps know) ever since I saw her the first time, but I nev”—the “er” left out—“loved her but for herself only; and if I see that she will be happy by marrying I will be the first to encourage it and if in some future time I can be of any service to her it will always be a great pleasur to do anything I possibly can for her, and moreover what has taken place will never be told to anybody whatsoever by me as long as I live. As far as I am concerned it is fully my intention if my C marries to make the army my profession to go abroad with my Regiment. (There is a strong rumour that we are to go either to Australia or India in Spring.) I care little were”—“where” is written without the “h”—“my Regiment will be send to I shall go with it to any part of the Globe where it may be send to I am in hopes that I have answered your letter as you wished it, I hope that I have neither offended you or my Uncle, If I have done so I hope you wont be offended as it has nev been my intention to offend you in the least manner. Believe me whatever the case may be, Your very affectionate Nephew—R. C. T. P. S. It is not my intention to go to Tichborne again for a long time to come, unless you and my Uncle express a wish to see me either now or during the leave if I apply for it during the winter.” I do not believe he could have written anything which would be more satisfactory to Lady Doughty than the expression of his intention not to go to Tichborne again. She was evidently anxious not to foster or encourage the affection which had grown up between the two cousins, or to have it supposed that there was any engagement. It was not likely, there-

fore, that she and Sir Edward Doughty would give him any express invitation to come to Tichborne.

Lady Doughty answers his last letter thus: "My dearest Roger. I received your kind letter by Mr. Gosford—I can only say it is perfectly satisfactory to your Uncle and myself. You need not however have felt displeased with what I said respecting the habits *you have had* & which you candidly owned, and by what I said I did *not* express *doubt* of your word or intention, only that under *certain* circumstances *proof* of change for a considerable time would be required, but I only refer to this now, to convince *you* that not one word have I ever written but what has been dictated by the sincere affection for you and which continues invariable towards you. The primary objection is relationship, and we are satisfied with your kind and honorable conduct, and therefore be assured we as ardently wish your happiness as ever and have the most affectionate feeling towards you, which some future day we may be able still more than at present to show you. I was sorry not to see you, but perhaps it was all for the best. We rejoice to hear you continue to look well, and were a little amused to find Mr. Seymour had brought you to Poole for Electioneering purposes, which clearly it was, as the future Proprietor of Upton; for the Votes were going against him, as he displeased many, however he has gained his Election.—We have not yet heard when your father comes over with Alfred—We are satisfied you are right in not *naming* anything to your father now, unless questioned, & then by sincerely answering the facts as *they were*." On the 13th of July Roger writes thus to Mr. Gosford:—"Many thanks for your kind letter which I received yesterday. I was rather surprised to see by it how very fast things are going on at Tichborne. I had no idea that her Ladyship was in such a hurry. Have you heard how long Frazer"—that is Lord Lovat's son—"is to remain at Tichborne? if Lady Doughty will try to gain his confidence? If she does so"—he says in the bitterness of his wounded spirit—"I advise him to keep a sharp look out. I received at the same time a letter from my aunt mentioning having considered the note which I send her by you. She apologizes in some way of having made use of those expressions in her last letter, and begs of me to continue writing to her in the same way in which I used to do; but I believe that our private correspondence is come to an end unless I see a change in her way of writing to me. I should greatly feel obliged if you had the kindness to write to me to let me know how things are going on, and if the crisis has taken place. As it is (at least in my present state of mind)"—the words "my intention" appear to have been here omitted—"to follow the army as my profession for many years to come, I shall most likely wait till I have got my troop, and then go abroad for at least ten years, if not fifteen years. It is now more than ever

that I regret my regiment remaining at home, and I regret also very much having refused that exchange to a regiment in India. I never thought that things would come to such a painful conclusion for me. But, however, what I have told you and wrote to my uncle *I will stick to & nothing will make me change*, and nobody will hear a word about it from me. As it is not my intention to go to Tichborne again, I shall write to you to let you know where you are to send my things." He writes again to him on the 18th. "I have not heard from Tichborne since I received your last letter, which I received a few days after my arrival here. I fancy that things must be near, if not come already, to a crisis. I heard from my father about ten days ago, he mentioned his intention of going to see my Uncle towards the latter part of this month, or at the beginning of next; he intends, it appears, remaining about three weeks at Tichborne with my Brother. Lady Doughty in her last letter, quite approves of my intention of not naming what has passed unless questioned by my father, in which *case I am advised to answer in an open & sincere manner.*"

Gentlemen, I call your attention to this letter and to the then state of things with reference to any communication having been made or not made to the father for this reason: in one of the papers relating to the sealed packet, the defendant states that his father "pressed him to marry his cousin;" and the importance of these passages relating to his father is that they enable you to judge how far his father knew anything at all about the matter, at all events prior to the time when the relations between Roger and his cousin had been finally determined and put an end to. It is manifest from this language, that, thus far, at least, the father knew nothing at all about it. "Lady Doughty, in her last letter, quite approves of my intention of not naming what has passed unless questioned by my father in which *case I am advised to answer in an open and sincere manner. I believe* that I have always done it; in fact, if I have to reproach myself with something"—in the French form, instead of "anything," and the word "reproach" being written without an "a"—"it is to have acted in too open and forward a manner with persons who will sooner believe what persons who know nothing about me say than my word. I fully expect that Lady Tichborne and some of my cousins who are so much interested in my welfare will tell some long stories to my father, but I am fully prepared for it. I am quite ready to face anybody, I don't care who it is. There is nothing new about here; everything is much the same as the day we arrived. You forgot to tell me in your last letter if you had any conversation with Lady Doughty; I fancy that you must have had some by this time. I shall not write to her till she writes to me. Pray write to me soon and let me know how is my uncle. I am afraid that he must be fatigued by

all the company who is I suppose at Tichborne now. I shall let you know the first time I go to London that if you have nothing better to do you may come & meet me there. Pray remember me kindly to M^{rs}. Gosford. Believe me, Yours Truly R. C. TICHBORNE. Pray write to me as soon as you can."

He next writes to Mr. Henry Seymour, "My dear Henry, I was very happy to learn by the note which you send me the morning of my departure from Poole that you had at last been elected. I was very sorry that my being so little known prevented me from doing more for you." Then he writes a letter to Lady Doughty, a passage in which may be of some importance hereafter when we come to the question of whether Roger Tichborne ever did receive a deputation asking him to stand for Poole. He writes on the 28th of July from Canterbury. All these letters (except these from Poole) are dated from Canterbury:—"You must have been I have no doubt much amused when you heard of my going to the elections. H. Seymour wrote to me expressing a wish that I should be with him at the time of the election, thinking I have no doubt that I might have some kind of influence in Poole. I started at once trying to find out what on earth had put in Henry's head that I had influence in a place where I am not much more known than the Man in the Moon. As soon as I arrived I began my campaign by M^r. Wollet, who I found very obstinate in refusing to give his vote, I talked about two hours on the subject but to no purpose, I might just as well have sung 'I'm afloat' for all I got." They had evidently thought that the future master of Upton, who would live in the immediate neighbourhood, spending a great deal of money in the town, might from the prospect of future business with the house at Upton, have some influence upon the electors. I am very glad to think that that does not appear to have succeeded: at all events the gentleman on whom he first tried his hand, Mr. Wollet, was impregnable to any consideration of that kind, and held his own as a straightforward, honest, and independent man ought to do, and paid no attention to this young man's solicitation. But it certainly does not look very like a man having received a deputation asking him to stand for a place, when he writes and says he was not known there any more than the "man in the Moon," and that he had failed to be of any use to his kinsman owing to his being utterly unknown.

There is a further passage in that letter to which I ought to call your attention, and for this reason. It was suggested by the learned counsel for the defendant that if you should be of opinion that what is called the Brighton card case could not have happened, as the defendant has alleged, at the Brighton Races in 1852, it might have happened at the Goodwood Races. Now in this letter of the 28th of July there is a passage which seems to me to show to demonstra-

tion that Roger did not go to the Goodwood Races; for, writing and dating from Canterbury, he says: "Several of us have gone to the Races: they have obtained leave for that purpose." Now when he speaks of some of the officers having gone to the races, having obtained a few days' leave for that purpose, he clearly could not have meant to include himself among them, as he is speaking of those who have gone, while he himself is writing at Canterbury.

From Canterbury he writes to Mr. Gosford a letter of July 30th, which is of importance, as showing that at this period he certainly is not likely to have gone to Tichborne: "My dear Sir, I am in a fix; I have just received a letter from my father informing me of his arrival at Tichborne. He expresses very strongly his wish that I should go to Tichborne for a short time during the time he will be there with Alfred. That is a thing to which I strongly object. He says moreover, that if I cannot go there he will come & see me at Canterbury. I don't fancy at all his coming here, because the very first thing he does in those cases is to tell all my brother officers what are my prospects in life. Well, that is not pleasant. The only thing which I have to do is to obtain two or three day's leave and to go to London. I shall write to inquire when he will go to London, and tell him that I have some important business which I am obliged to get settled in town, and if he likes (as I hope he may) to come and meet me there. Pray write to me by return of post to let me know when he intends going to London."

It seems that at this time his mother had conceived the notion, her husband and her son Alfred being in England, of coming over to pay a visit to Roger. The father and son were at Tichborne; Roger was with the regiment at Canterbury, and his mother wrote to say she should come over and see him, on which he writes her back this characteristic letter. "2nd of August 1852. My Dear Mother, Many thanks"—so written for thanks—"for your last letter which I had the pleasure of receiving the day before yesterday. I am much obliged for your kind wish of coming over to see me but at the same time I see great difficulties in your coming over by yourself, you should have if such was your intention have come to England with my Father. Your being in this part of England by yourself, and my Father in another will look very strange to everybody, but however I have written by this post to my Father and if he approves of it I shall take a house for you and him at Dover which is but a very short drive from Canterbury. There are no lodgings to be found in Canterbury and the Hotels are besides that, I believe the most expensive in England. Dover is a very nice place. I drive there myself two or three times a week if not more. If you come here it would be quite impossible for you to see me but *à l'exercice*, no Lady goes there by any chance and besides that we go much too early, we go

before 6 in the morning. I wish you would wait some time before you take any step. I was very glad to learn that you were so much better;" and so forth.

We have next a letter of the 7th of August, which is important as it is the critical period of the Brighton card case. The Brighton Races took place that year on the 4th, 5th, and 6th of August, and we have the foregoing letter to his mother written on the 3rd, while the next letter is dated the 7th. This, it is true, leaves three days, the 4th, 5th, and 6th, on which it is impossible to prove positively that he was at Canterbury; but there are circumstances which tend to show that he could not have been away from it at this time. He writes on the 7th to Mr. Gosford, and he says: "I have enclosed in my letter the list of things which I have forwarded to you this afternoon. I should feel obliged if you had the kindness to put the military clothes in a dry place, as they will most likely be of some use to me later. It is long time I have given up all hopes of pleasing my family. It is next to impossible for me to do it. If I please one I am sure of displeasing the other. It is certainly one of the causes which have always made me act for myself, which has been fortunately for the better"—As much as to say: my father and mother never agreed in anything with reference to myself; if I sought to please the one I was sure to displease the other, and the result has been that, being thus, as it were, between two conflicting influences, I have learnt the necessity of judging and acting for myself, and perhaps that is a fortunate thing; it has led me to think for myself upon what I have to do, and has developed my own judgment and power of judging for myself.—"I have not heard from Lady Doughty for a long time. I don't fancy that she will make a long stay at Ride. If you are anxious to get back again into her confidence tell her *privately* that an exchange has been offered to me in a cavalry regiment in India."

Writing thus to Mr. Gosford on the 7th of August, which shows he was at Canterbury on that day, he on the same day writes to his mother.

Now if the Brighton card case happened in 1852; if he lost money at Brighton during the Brighton Races, which were on the 4th, 5th, and 6th of August—a matter to which I shall have to call your attention more particularly by-and-by—and if he had not the means of satisfying the debt which he there incurred by his losses at cards, and it was necessary, in some way, to meet that debt, and his only way of meeting it was by having recourse to his mother, it could only have been (seeing that the mother was at that time at Paris, and he was at Canterbury) by correspondence: the only mode he could have applied to her was by writing to her, and saying, my dear Mother, I have lost the large sum of 1,500*l.* at cards; I have been swindled

out of it; I must make some arrangement; will you let me have 500*l.*, because I can settle it if you can let me have that sum.

But there is no such letter. We have this letter from him to his mother of the 7th, the day after the races terminated; the time when, if he lost the money at those races, the money would have been wanted. The mother was at that time contemplating coming to England; if he was in that predicament, and could only get out of the difficulty he was placed in, through her assistance, you would scarcely have supposed that he would have written to deter his mother from coming. But he writes:—

“Cavalry Barracks Canterbury 7th August

“MY DEAR MOTHER.

“I strongly advice you to give up all idea of coming over to England. If such was your wish you should have thought of it sooner and come over with my Father. It would be quite impossible for me, if you came to Canterbury to look after you. On all cases it would place you and I in a very false position to see you in this part of England and my Father in another. I cannot make out how you ever could think of such a thing. I shall most likely obtain some leave during this winter I shall during that time go and spend some time with you in Paris. I hope that the reasons which I have given and common sense will induce you to give up all idea of coming over and that in future you will neve think of such an absurd thing. I could easily write down all the objections to your doing such a thing but I fancy that what I have said and common sense will be sufficient. I heard from my Father few days ago he writes in very good spirits. Alfred is very well and enjoying himself very much I am enjoying a very good health; in fact I dont think that I ever been so well, so that you may make your mind perfectly at ease about me. Henry Seymour has as you have no doubt heard been elected for Poole in Dorsetshire, he had at the beginning much difficulties in obtaining the votes but he succeeded at last. Nothing new has taken place in this part of the country every thing is remarkably quiet,

“Believe me

“My Dear Mother

“Your very affectionate and Dutiful Son

“R. C. TICHBORNE.

“August 7th 1852

“P.S. My father is quite against your coming over.”

On the 8th we see he is still at Canterbury, as on that day he writes from thence to his aunt. “I have not been about much lately. I have very nearly explored all the places in this neighbourhood, there are still one or two places which I feel anxious to go to if I can possibly obtain a day’s leave”—He could not have been at the

Brighton races without leave, and he speaks here of the difficulty of obtaining it—"The country about Maidstone is so beautiful it is supposed to be the garden of England. I think I shall be able to go there sometime during this week." Then he writes to Mr. Gosford on the 10th of August, and he says he has made up his mind to go out with the regiment if they go, and then he says, "For my own part I have fully made up my mind about it. As long as I am not obliged to go back to the south of Ireland, I don't care to what part of the world I am sent to. I hope that nothing unpleasant has taken place between my father and my uncle. I have not heard from Lady Doughty for a long time. I fancy that she must by this time be back at Tichborne"—she had been at the Isle of Wight. "I fancy that she has asked you if you heard from me. I wrote to her yesterday." He writes again to say an exchange has been offered to him in a regiment and he has been negotiating about it. On the 17th of August he writes from Canterbury: "I have not to my great surprise, heard anything further about my exchange"—he goes on—"I believe that you must have heard from my father what answer I wrote to his letter. I wrote rather a short one, but I cannot stand any longer to hear over and over again about those family deeds"—The father had written to him on the eternal subject of Upton, and he had written back a sharp answer—"I suppose that you are getting on very well at Tichborne now. I suppose that all the different events which have taken place at the beginning of this year are now quite buried in the past and that her ladyship seldom, if ever, alludes to the subject to you. I may perhaps apply for two or three day's leave during September. I shall spend that time in London. I shall let you know sometime before, so that if you have nothing better to do you may come and spend a day with me then. I regret now more than ever the Carabineers remaining in England. I don't at all fancy the idea of remaining in England. Fortunately we have a choice of going out somewhere or other next year."

At this time Sir Edward Doughty was again taken ill, and Lady Doughty writes: "Never attribute my silence to want of sincerest affection & interest for you, I may truly say never one day passes without my thinking constantly of you & your future life. I have received your *private letter* & shall burn it. Whatever you allude to I see your generous feeling in *not* wishing to bring me into difficulties, and your silence to me respecting family settlements was I know dictated by kindness and good sense and enables me to say with truth that I *do not know* your intentions if I am asked, but I do not expect I shall be, your name is seldom mentioned, and though your father is evidently in a very excitable humour, we all go on tranquilly & he *never* speaks to me on any but general subjects; I have thought it prudent as I before told you not to write much to

you when he is here. I have to day without naming your letter asked Mr. Gosford to tell you of your beloved Uncle's dangerous illness. He was taken Thursday night with spasm as before, and ill all last night & so continues, and is not yet relieved, and has received Holy Viaticum now 6 o'C & we have little hope. Dear Roger I shall ask him again to pray for you. If not fully relieved the Doctors said in 24 hours this morning there is no hope—he is fully resigned to the will of God—I do hope *you and I* may have as well prepared a death if it does please God to take him." On the 23rd Roger writes to Gosford from Canterbury, still showing that he was there and nowhere else. "I received your last letter. I was very sorry to learn by it such bad account of my uncle. I hope that he may get over it. I should feel much obliged if you had the kindness to let me hear daily how he is. I am at present in a very awkward situation towards my father and family. My father wrote to me some time ago a letter which I did not at all like. I have taken it up, so that if I was to meet him now our meeting would be anything but pleasant for all parties. I dare say that if you have not, you will soon hear about it." This would appear to have been the only instance in which there had been anything which could be called a quarrel between the father and son; it is therefore a matter that should be adverted to. The defendant afterwards alleged there had been a quarrel between his father and himself. It may be that he was referring to what had been written on both sides on this unfortunate subject of Upton. Roger goes on and says, "But however let the case be as it may, it is impossible for me to please all parties. I have nothing to reproach myself with, as I have, I believe, acted fairly and honourably towards everybody. I am regularly disgusted with all the business when I see that, after having granted what I thought fair to my family, my father comes and writes me pages about Upton and several other things which I had every reason to believe had been settled long ago. This will be I have no doubt, a critical time for you. I shall give you some piece of advice which will be of some use to you later. I have heard nothing further about my exchange. Believe me Yours Truly R. C. TICHBORNE. Pray let me know if my uncle wishes to see me." I cannot help thinking he hoped this illness might possibly be productive of the same results as the former. Before, as soon as his uncle was taken dangerously ill, he was summoned back to his bedside; the same thing might happen now, and with the same result, that of furthering what was still his unceasing desire.

Then Lady Doughty writes as follows, and if she is writing truthfully, the passage is a very important one, because I think it is impossible to suppose that his uncle could have sent such a message to Roger if he and his wife had at that time had any notion that

Roger had been wanting in honourable conduct towards their daughter, as the learned counsel has suggested. "Thanks for your kind enquiries at which your dear Uncle is also much gratified, he spoke of you again to me with the greatest affection, when he thought *himself dying*"—a man does not do that of a person who has sought to undermine the honour of his daughter—"he said 'give my love and blessing to dear Roger & my hope that the time is not far distant when he sells out and settles down & truly glad should I have been to have seen him make a happy marriage.'"

On the 30th of August Roger writes a letter to his aunt, which is material in this way: he gives her a detailed account of gaieties which had been going on at Canterbury throughout the whole of the past fortnight. He says, "These two last weeks have been very gay for Canterbury;" and he describes the gaieties in a way in which a person would describe them who had taken part in them. "The first week was the cricket week. The great matches of Kent against all England were plaid. The game is now so very universal that Kent had not the least chance and was beaten out and out by the eleven of England. There were some *déjeunés* and picnics given at the same time, several Officers went to the parties but I would not go. I have now given up altogether going to those pleasure parties." Then he speaks of a great ball; then, "Last week was the racing week"—and he describes the races, and evidently speaks of all that has been going on for the last two weeks as what he had taken part in himself—thus showing that he had been at Canterbury, and consequently could not have been at Tichborne all this time. Then he says, "I have heard nothing lately of our future movements, only that it is the common belief among ourselves that Canterbury is to be our first and last quarter in England. If we remain in England for two years longer, which is doubtful, we will most likely go in Spring to Brighton, in which case I stand a very good chance of going on detachment either to Christchurch or Dorchester. Detachment duty in England is the pleasantest thing in the world. It is not to be compared with what is detachment duty in the south of Ireland. I suppose that my Father and Alfred have by this time left Tichborne. I have not heard from my Father for some time." So that it would appear that up to the end of August, he had not determined to quit the service. He would gladly have exchanged into another regiment for foreign service, and he would have been glad if his regiment had been ordered abroad; but he was prepared to wait and stand a chance of the regiment remaining in England, of going on detachment duty in England.

This brings us to the end of August. Looking to the correspondence and the circumstances to which it relates, the question presents itself whether any doubt can be entertained that throughout the

months of July and August Roger Tichborne was stationary at his quarters at Canterbury, never during the whole of that time obtaining leave to be absent a single day, and certainly not being during that time at Tichborne. The whole correspondence shows that he had a firm intention not to go to Tichborne unless he was expressly asked, while on the other hand, there was no disposition on the part of Lady Doughty that he should come to Tichborne. When we follow these letters step by step we find that there is no reference to his ever having obtained a day's leave, or having been absent from Canterbury a single hour throughout the whole of that time. Under these circumstances I see nothing to lead one to suppose that he ever was away from Canterbury, or was, or could have been, in the neighbourhood of Tichborne during that time. The infinite importance of this conclusion with reference to the question of the sealed packet will hereafter be seen.

If we follow his course through the month of September we shall find the same thing. He writes to his mother on the 9th of that month and gives her an account of what has been going on in Canterbury, as he had previously done to his aunt, and then he says this to her, which shows that he had no desire to see her or have any personal communication with her. "You have done very wisely to give up the idea of coming over to England by yourself: it would have looked so very strange to every lady to see you in this part of England by yourself and my Father in another. I cannot conceive what could induce you to have such an idea." He desires to be remembered to the Abbé Salis, as also to M. Chatillon, which shows he had not forgotten his old friends. At the beginning of September, Sir Edward having improved in health, Lady Doughty went to Ryde, and there is no reason to suppose that during the time she was at Ryde he was away from Canterbury or ever went to Tichborne. He writes to her at Ryde on the 9th September, "I was sorry to learn a few days ago that you had been of late so unwell. I hope that you have derived as much benefit from the change of air as you expected. I would have written sooner to inquire how you were if I had not been of late very busy and little time left to do anything." Then he says, "We are going to give a ball to the town of Canterbury and to the neighbourhood at the very end of this month or at the beginning of next. It will be we all hope a very good ball. I am sure that the Carabineers ball will astonish the natives. I shall not be able to avoid going to it unless I can manage to get on the sick report which is very unlikely as I am in a flourishing state of health." That must have been between the attack of which General Jones spoke and the subsequent and more serious attack which took place some time in the month of September or early in October and which Colonel Bickerstaff has deposed to. Lady Doughty writes to him on

the 10th from Ryde, and she tells him that she had come there on the 1st and had been there ever since with her sister and Captain Macdonell, and she adds, "my Katty came on Wednesday & we return to-morrow to Tichborne together." Then she says, "Your Father was very low & Alfred miserable as usual when they quitted Tichborne on the 30th, but nothing unpleasant ever passed between us and your Father, he never even alluded to any correspondence with you, and we all parted the same friends we had met. I suppose you do intend to see him before he goes over again, but he never named you in any way to us."

On the 18th of September Roger Tichborne writes to Mr. Gosford as follows: "I went up to London on the 15th of this month to see my father; I found him looking uncommonly well. I don't think that I ever saw him looking better. We had a long conversation together, in which he strongly expressed his wish that I should leave the Army; he told me it was very unfortunate for him and my mother never to see me, and to be deprived altogether of my society. The case may or may not be, but I know for myself (and I speak from experience) that the farther we are from each other the better it is for our mutual happiness"—I suppose he had found that, what with the bad temper of his mother, and the hasty disposition of his father, whether he sided with one or the other, or refused to side with either, he only got himself into hot water with one or the other, or both, and aggravated their discord, and these disputes were a source of unhappiness to him—"He told me, moreover, that he wished I would leave the service soon, because he was perfectly aware that we would be sent abroad before long, and he wished me to leave before my Regt. was under orders for foreign service, as then it would be impossible for me to do so. To all this argument I answered that I did not see why I should not see as much of the world as I possibly could while I was young; moreover that I thought that it was a good thing for a young man to have some kind of occupation; that there was not, it is true, much to do in the army, but at the same time it was something. Supposing for a moment that I would leave the Army, what was I to do with myself? He answered to that, that I might live where I liked, *spend most of my time at Tichborne*, and go to Paris when I liked. To all this I made no reply, because I knew that if I began I might perhaps say things which I had better keep to myself. Our conversation ended there. I don't give any farther particulars about it, as he told me he had had before leaving Tichborne a long conversation with you about my going abroad. I told him before I left that I would most likely take during the winter a sporting tour to see different packs of foxhounds, and not go to Tichborne. He intreated of me to go and spend some time with my uncle. He said though my Uncle was well it was im-

possible for me to expect to see him much longer, and that he begged of me to go to spend some of my leave at Tichborne. Now, how all this will end I cannot say, because it is not my intention (at least at present) of going to Tichborne, unless my uncle and aunt express a very strong wish that I should go and spend some time with them during the winter) to go to Tichborne at all this winter. I have my reasons for doing so, which I have no doubt you know. It is impossible for me to say if you ever knew what were my intentions when I entered the Army. My firm determination was never to serve at home, but to go abroad as soon as I was able. I am (if I may call it so) fond of the service, but I don't like at all living at home. Some persons may like it, but I don't, far from it. There is so much sameness, every day being more or less the same thing, of which a person soon gets tired of; at least I am, and very much so. I know that if I had a comfortable home, or a chance of settling quietly by myself in a small cottage with the number of horses (which are all good hunters) I would not remain long in the Army, especially if there was no chance of my going to India; but, as it cannot be, I must make the most of the profession I am now following. I know perfectly well what has put all these ideas into my father's head. He has been talking with some priest or bishops, who most likely told him that the Army was the ruin of young men, and that he ought to try to advise me to leave the service. (I have my suspicions on that subject.) If I was to leave the army I never would live at my father's house. I learned when I was in town all about Doctor Brown writing to my father last May. When he wrote he was at Tichborne. It was a great pity"—pity spelt with two "t's"—"that I did not know it at the time; But, however, if he or anybody else writes about me without better information, I shall make it my particular business to find the person, and writing my mind to the person whoever it may be. I suspect that my father will write to my uncle about what I told him about my not wishing to go to Tichborne this winter. It may perhaps bring things to a kind of crisis, but what crisis it will be I cannot say. It was a great misfortune that my regiment did not go abroad. In the present state of things it would have been by far the best if I had gone abroad. I suppose that everything at Tichborne is much as usual. How is my uncle? Have you found my stick of any use? Believe me, Yours Truly, R. C. TICHBORNE. P.S. Burn this letter when you have finished reading it. How is my cousin getting on? I heard some time ago that she had not been well lately."

Again on the 25th he writes, "*Private and confidential*"—At this time he seems to have made up his mind to leave the army if no orders for foreign service came, and he expresses now a desire to get a hunting-box in Hampshire, which gives rise to a lengthened correspondence—"My dear Sir, I have waited long to hear from

you but I suppose that you have been of late so busy as not to have had time to write letters. It is fully my intention if we don't receive the order before long to prepare for foreign service to leave the Army. It has never been my intention since I joined to remain on home service, and as we are at present so situated as to prevent altogether my making an exchange into a cavalry regt. in India, it is my intention to leave before long. I should therefore feel greatly obliged if you had the kindness to let me know by return of post if it would be possible for me to find somewhere in Hampshire a cottage, a kind of hunting box which would be large enough for me to live in with stables for my four horses. I should like the place to be within ten or twelve miles from Tichborne, not nearer as I don't wish to be in sight of the house as I don't wish to have anything to do with the family. Pray answer me"—Ten or twelve miles might bring him into contact with Lady Doughty, which might possibly open the way to re-admission to Tichborne or to his having an opportunity of going there without compromising what he had already said, which was that he would not go there unless he had an invitation from Sir Edward and Lady Doughty—"Pray answer me by return of post as a great deal depends on what I shall hear from you. Soldiering is very well abroad but it is dull work at home. I should feel much obliged if you had the kindness to let me know at the same time how much it would cost me to live in the manner I have described, if it would be possible for me to live in that way on my income."

On the 30th of the month—having been throughout the month of September still at Canterbury—he writes to his aunt: "It is a long time since I had the pleasure of receiving a letter from you"—a person does not write in that way who has been at the place where the person to whom they are writing lives, and who has had an opportunity of seeing such person.—"It is long since I last had the pleasure of receiving a letter from you. Nothing new has taken place about here of late except that the Duke of Wellington's death has put a stop to our ball, which was to take place on the 21st of this month. I have heard nothing of our future movements, nothing seems to be afloat about it at present. I am anxious to hear something about it, because though I am fond of my profession, soldiering at home is but a dull work of which I am rather tired of. If I don't see or hear something about a chance of our going abroad in the spring, I don't think that I shall remain much longer in the army. Soldiering is all well and good abroad, but it is rather dull at home. I wrote yesterday to my father on this subject in answer to a long letter which I had received from him the day before." That is the correspondence of September: the next series of letters are those of October.

Now, this proposal of his to take a hunting-box in the neighbour-

hood of Tichborne created very great commotion in the mind of Lady Doughty. Her great object was to keep him away from any approach to her daughter: the learned counsel for the defendant says this was because she had a knowledge either of dishonourable attempts or intentions on his part, or was apprehensive of something of that kind. That is for you to judge of: it may have an important bearing on one of the great issues in this case. What is put forward in her letters—and it is for you to judge whether it is hypocritical or sincere—is in effect this: The world has given out that you and your cousin are engaged, the effect of which necessarily is to keep other men from offering her any attention in the way of courtship, with a view to marriage. As long as you are in the neighbourhood and come to Tichborne, that belief must of course be kept alive, and our great object is that our daughter should have fair play and have an opportunity of seeing other persons for whom she may conceive an attachment as well as for you, possibly stronger than the one she has conceived for you. In order that she may have that opportunity there must be nothing done to foster and encourage the belief of an engagement. If you are in the neighbourhood, one of two things—either we must invite you to Tichborne, in which case the report will receive confirmation, or if we do not, it may be said that there is something in your conduct which renders it necessary we should exclude you. Do not put us to the painful alternative which your taking a hunting-box and hunting with the Hampshire hounds in our neighbourhood would necessarily occasion: if you want to hunt, go and hunt somewhere else. I might pass over these letters, confining myself to pointing out such passages as show that during October Roger Tichborne never was at Tichborne or near it; that he never left Canterbury; but when such a construction is put on them, it is necessary to look at them a little more carefully to see whether it can be put upon them with any propriety. Roger writes to Gosford on the 5th of October, being still at Canterbury, and says: “I shall go to London either on Friday or Saturday to have a long talk with you, in all cases I shall let you know what day I shall be in town by the electric telegraph. I should, therefore, feel obliged if you send word at the Winchester Station so that they may send you the message as soon as it will arrive. I have not heard from Lady Doughty since she was at Ryde. I wrote to her twice since. It makes me believe that there is something going on, that she has something on her mind; what it is I cannot say;”—this shows he had not been at Tichborne in the meanwhile or he would not complain that he had not heard from Lady Doughty; if a man is at the house of a person he does not expect to hear from her;—“I cannot see what objections she may have to my settling in Hampshire, as it is not my intention to be within ten or fifteen miles of the house. I cannot see what she can

say against it, as she will not see or hear of me more than if I was in Ireland. But, however, let the case be as it may, she cannot prevent it. I am so peculiarly situated at present, that if I leave the army and don't wish to lose money I must begin at once, before the leaves are given out, which will be very soon. It makes me, therefore, very anxious to see you on one of the days I have mentioned, to be able to settle at once all about it. I certainly never would have thought of leaving the service if there had been the slightest chance of our going abroad or of promotion, but there is none whatever. If I had been even so able to make an exchange into a Regt in India, I should have gone at once, but we are so situated at present that we cannot exchange, and even so selling out requires much trouble and pains. I shall have, I believe, a long business before I am able to finish the latter. I should feel much obliged if you had the kindness to inquire about your neighbourhood if there are"—for "is"—"any hunting box to let with stables large enough for four horses, a place for a dog cart, a room for a servant or two, and two or three rooms for myself. I should like also a small garden if I could get it. If you can, find out all about it by the time I see you, and how much it would cost to let for six months or a year"—he writes "let" instead of "hire"—"it will be a great pull for me as it will enable me to proceed at business at once. What makes me in such a hurry is that I am very anxious to be well settled before the hunting season begins, so that when hunting begins I may be perfectly prepared for it, and be able to begin at once. I have four very good hunters, and I hope to be able to cut a figure after the II. II. this season. In case you should mention anything to Lady Doughty, but I would rather you should not say anything to her till I see you, say that it is not my intention to come within ten or fifteen miles of the house at least, if not more. My mother wrote to me the other day requesting me to go to Rome this winter, to get introduced to some persons of her acquaintance. I know that she has some views in that direction, but I answered that I would not under any circumstances whatever lose half a hunting season to go such a distance for change of air which I did not want, and to get introduced to persons I did not care about knowing. But if I one day or other took a fancy to travel, I should go at once to South America and Mexico which countries I was very anxious to see, and finish my travels by Europe"—That is the first intimation of any idea of going to South America—"I was sorry to have such bad accounts of my Uncle. I hope that he will keep on well and may pull through this winter, though there are, I acknowledge, many chances against him. I am rather anxious to receive a letter from Lady Doughty; I fancy though that it will be just as civil and reserved as her last one. I think that she now quite believes that our private correspondence is at an end. I am also

anxious to hear from my father; in my last letter to him I alluded to the chance of my leaving the army and leading the life of a country gentleman."

Then we have a letter from Lady Doughty, who is in a great state of excitement about his coming to live in the county. "This sudden determination of leaving the Army we should have thought required much consideration on your part before you took so decided a step when you have a prospect of having a company which would have given you a position in life most desirable, since you chose the Army as your profession—for after all, hunting would only give you occupation for half the year, but if this consideration has no weight with you your determination of living in Hampshire involves far *greater* considerations inasmuch as the happiness in life of others besides yourself may be involved—as parents we have a duty to perform dear Roger and must represent plainly to you the position in which you would place both yourself and us by coming to live in this County, and before doing so we have a right to demand that you should make known to *your Father* the circumstances that have occurred, as it must necessarily involve an explanation with him, were you near us, as to why you have not the liberty of coming here as heretofore; for if we did not receive you it would either be a slur on your own character by leaving it open to the world to suppose there must be a *serious* cause for your being banished or they must know the truth—you are aware of the reports that are quite as current as ever, and would it be behaving honorably towards us to shackle the choice of our child?—Your Uncle in your last conversation explained his wishes to you on that point, and after this could we encourage you to come here *without your Father* being aware of these circumstances? It would be truly painful to us to have you constantly hunting with hounds that meet nearly every *meet* within easy reach of this house and not to see you. It would be exposing you and ourselves to reflections most trying and harassing to our *feelings*, besides closing the prospects of freedom of choice which we wish our child to have and which indeed we should be wanting in our duty to her not to ensure for her at present. Now dear Roger I have again to assure you of every kind feeling from your Uncle and myself and that we are sincerely interested for you and wish your happiness in every way and that what I have now written has been dictated by a sense of duty to all parties, & with his & your cousin's kind love, I remain," and so on. He answers on the 10th October, being at this time in London: "In reply to your last letter which I received few days ago I beg to say that if I settle in Hampshire it is not in the least my intention to be in reach of Titchborne, as if I take a hunting box for this season I shall so manage it that it may be at least fifteen or twenty miles from the house at least if not more.

The idea of leaving the Army never would have come to my mind if there had been the least chance of the Regiment going to India but there is no chance of the Carabineers going before three years. Though I am fond of my profession I find that soldiering at home is rather a dull work which I am rather tired of. If I had been even so able to make an exchange into a Cavalry Regt. in India or the Cape I should have gone and not thought of leaving the Service. But we are unfortunately so situated that we are not allowed to make an exchange. I have written fully to my Father the reason why I wished to leave the Army and telling him moreover what were my plans which are these. I intend remaining and hunt in England during this season and to go in Spring to travel in South America and Mexico which are two countries which I want to see. I intend going all over that part of the world and finish my travels by Europe. I was very glad to see Mr. Gosford yesterday as I was able to tell him much more about my future plans than I could have done in a letter—he told me that he would see you either Tuesday or Wednesday—he will be able to tell you the result of our conversation. I should be sorry if you thought for a moment that if I settled in Hampshire I should be in your way. I should so contrive that you would not see or hear of me more than if I was in Ireland. I have given up altogether going to balls and parties so that if you go out anywhere there will be no fear of your meeting me anywhere.”

Then he writes again to Mr. Gosford, pressing him about finding him a hunting-box, and then Lady Doughty writes another strong letter, of the 14th of October, in which she says: “You must greatly *miscalculate* our affection for you (whom we ever made as welcome to our home as if you had been our child) to think it could be a matter of *indifference to us* to have you in the *same* county even 20 miles off—as to have you at Canterbury, where as a Military man you could not have *leave* at all times to come us, but within a distance that must be most painful to deny *ourselves seeing you here* and exposing both you and ourselves to the *conjectures* and censures of others and making *us all* the subject of remarks is indeed most *painful* in every respect, whether the blame fall upon *you* or *ourselves*. As a Tichborne you cannot avoid being remarked in this County, and your shunning parties balls &c we should truly regret, wishing you as we always have done to take that position in society in which it has pleased God to place you, and nothing could be more injurious to you than shutting yourself up in *solitude*, or associating with those *beneath* you, the only alternatives in a lonely hunting quarter. We conclude that your Father will most certainly be surprised that you should not hunt with these hounds if you do not go to the most *frequented* hunts, and therefore would naturally inquire why you choose 15 or 20 miles from home, rendering impossible or nearly so your

even hearing mass on Sunday & therefore an explanation must ensue. Your Uncle desires me to say in that case, he hopes you would act with perfect sincerity towards your father and we should do the same. We have acted from a sense of duty & only regret you do not see the full force of the unpleasant circumstances into which you are *throwing us all*."

He writes again to his aunt: "Seeing that there is no chance of our going abroad for a long time to come if ever we go at all and moreover that I am not allowed to make an exchange I don't care as I have told my Father remaining in the Army any longer but wish to sell out and settle in England as a Country Gentleman for this Winter only, because it is my intention to embark early in Spring for South America where I intend to travel, as also in Mexico. I have a great wish to see those two countries. But before going abroad I think it quite natural that I should see a little of English life. I received a letter from my Father this morning leaving me perfectly at liberty of selling out and settling in England if I liked it. I must say moreover that the last time I saw him he expressed his strong wish that I should leave the Army. As to my going to parties and balls I never go. I have not since I left Dublin been out but to one evening party. I could not help going to it otherwise if I could have helped it I should not have been. It is no pleasure for me to go to balls and parties, I much sooner remain at home. As to my settling in Hampshire I don't see why you should have such an objection to it. I shall only be there but for a very short time, my not going any were"—"where" is written wrong—"will shelter you against any remarks which might be made about my not going to Tichborne and I shall be besides that at such a distance of"—of for off—"that my not coming to see you won't be remarked. To shelter you still further against any other remarks I shall not in all probability hunt either with the H.H. or the Hambleton. As to my Father making any remarks about my settling 25 or 35 miles from Tichborne I am perfectly certain that he will not make any remarks about it as he leaves me perfectly at liberty of settling where I like. If he was to make any remarks about it I have only to answer that I preferred that part of the Country and I am perfectly certain that he will not make any remarks about it. If I take a Cottage in Hampshire I shall chose a part of the Country where I know nobody and where nobody know me."

The correspondence having gone so far, and Roger having shown no disposition to give up his scheme of taking a hunting-box, and coming to spend the hunting season in Hampshire, preparatory to going abroad in the spring, Lady Doughty suggests a different course. At the end of one of her letters in which she reiterates the same sentiments she had expressed before, she says, "Your Uncle

desires me to add, that should Upton not be let at the time you carry out your views, if it is any convenience to you to go there you could do so; the stables are as you know excellent and there are two servants in the house which is always kept aired and it is within reach of Mr. Drax and Mr. Farquharson's hounds. Adieu dear Roger—may God bless you.” That is written on the 17th of October; on the 22nd Roger writes accepting the offer. “I hope that you will excuse the long delay which has taken place in my thanking you and my Uncle for the kind offer which you made in your last letter which I found last Monday on my arrival at No 34 St James Place. I shall be very glad indeed to go and live at Upton during this winter. I like the place very well and I have no doubt that I shall be able to spend my time there very pleasantly. I dare say that I shall be able to get some hunting with the New Forest fox hounds and perhaps with some other packs which may come in the neighbourhood. I shall have plenty of stabling for my horses which is a great thing for me. I shall be I think able to leave the Army before few days are over and I shall go and settle there at once.” On the 23rd of October he writes to Mr. Gosford, and says: “As I see that it is perfectly useless for me to try any longer to make myself understood by Lady Doughty, I should feel obliged to you if you had the kindness to explain to her that she is perfectly at liberty to tell my father at any time she likes what are the reasons why I don't go to Tichborne; that so far from wishing to make a mystery of it it was fully my intention the last time I was at Tichborne to let my father know what attachment existed between me and my cousin. But it appears at present with her straightforward way of acting in these matters, she seems to accuse me and make a crime of my keeping all what has passed quiet, as I think it best to do at present. But however, let the case be as it may, so far from wishing to keep the thing secret, I shall make it known publicly”—the last syllable being spelt with two “l's”—“to my father or to anybody else she likes, at any time she wishes me to do so. I say so in full confidence because I am certain that nobody can disapprove”—written with one p—“of the way I have acted all through it, as it has always been in the fairest and honourable way toward my family and every body else (and I am certain that it was not always an easy task) As my Uncle and Aunt were kind enough to offer me Upton (though I see quite plain through it, as their chief object in this case is to prevent me from settling in Hampshire) I intend going there in all probability in the course of next week, and as I hope by that time to be able to have settled all about my leaving the Army I intend remaining there all the winter. I should therefore feel obliged if you had the kindness to send my two guns and two rifles there as I intend to have plenty of practice before I begin my travels early

in spring." Then he writes his aunt a long letter of the 25th: "The reason why I wrote to Mr. Gosford to explain to you that I had no wish to keep what has passed at the beginning of this year and what has occurred last summer a secret from my father were these. I have tried several times before to explain to you that it was best to keep all what has passed quiet for the present as you had objected to my letting my father know when I offered to do so when I was last at Tichborne, which was then the time to have made what had passed known to him, because in all things a person must consider the good and bad side of it and the time to let it be known. Don't be my dear aunt offended at what I say, I should be sorry if you thought for a moment that I wish to offend you in the least. It was no mystery to me that by your offering me Upton to live in you wished to prevent me from going to live in Hampshire. I am very much obliged to you and my Uncle for your kindness. I am very fond of the place and I dare say that I shall be able to spend my time there very pleasantly." Then he justifies his leaving the army, and then goes on: "But however, let the case be as it may, it is not my intention to remain in England. If I expressed in some of my letters the wish to go and settle in Hampshire for few months it was merely to spend few months in England and to enjoy a little hunting, but as it cannot be as I wished it at first, I am nevertheless very well pleased with the change, and so much so that there is I believe no Society about Upton and I don't go out anywhere: it will suit me very well as I shall not be asked out. It is fully my intention to embark for South America either in March or April, and to travel in that country as also in Mexico for a year or two, if not more. I had every reason to believe that as I grew older my game would be easier for me to play but I see plainly that the older I grow the more difficult it comes. I have quite enough of it at present and I am in great hopes that when I shall be far away I may perhaps enjoy a year or two quietness which is certainly worth looking to for me." Finally, he says: "As you have brought things to a kind of crisis I shall certainly not shrink from it. I have always behaved as fairly and honourably towards every one of my family as I possibly could though it was and as always been"—this is an instance where he writes "has" without the "h"—"next to impossible to please every body even so to make two opinions agree. But as I have (as I have said before) nothing to reproach myself with, I don't see why I should not follow up the straight line of conduct which I have traced for myself."

There are two more letters in October, which bring the correspondence of that month to a close. The first is a letter from Canterbury to Mr. Vincent Gosford, informing him he has accepted the offer of Upton. And there is a passage in this letter which may throw con-

siderable light on a part of the case which otherwise might appear more or less mysterious. He begins: "I should feel much obliged if you had the kindness to get the stables"—that is, the stables at Upton—"and a room for my groom and a place for my dog cart ready as soon as possible as my horses will arrive either on Wednesday Thursday or Friday afternoon, to the latest. As I see by your letter that you are going to Upton I should feel much obliged if you had the kindness to take down with you my two friends Spring and Piecrust. I hope that the journey wont fatigue too much their delicate constitutions."—Now observe what follows—"I should feel greatly obliged if you had the kindness to bring down with you at the same time all my things, such as my four brass instruments with the mouth-pieces and crooks, my two guns and my two rifles, 2 pair of jack boots, brushes,—I have two pairs left at Tichborne—two red coats, two pairs of shooting shoes and perhaps some light ones which I have forgotten there, shooting jackets, coats of every description, as also trousers of every colour, as also my books and music books, my six or eight hats, and caps of all shapes and colours, as also my backgammon board, my haversack, pipes, tubes if there are any, hunting cap, whips with the lashes, hunting spurs (I had two pairs left in my sitting room) scarfs, in fact every thing which you may find in the house which belongs to me. I hope that it won't give you too much trouble to bring all those articles, you may easily put them in a large box. I should feel obliged if you packed up my brass instruments carefully in a box, as it would be a pity if they were spoiled. Will you have the kindness to settle with Bran about my dogs. I shall give it back to you the first time I see you, or you let me know how much it is. I shall be able to leave Canterbury for Upton I hope towards the latter part of the week. I have not yet been able to send in my papers to sell out. I am negotiating very hard with the other officers to try to get back the money which I gave above regulation. I shall be obliged I am afraid to lose some of it and to wait some time before I can get back a portion of it, but I am nevertheless in great hopes of getting back most of it with time. I shall write to you tomorrow afternoon."

Here, gentlemen, you see how careful he is about things to which perhaps other people would not have attached so much importance—articles of little value—he has them all carefully packed up and conveyed from Tichborne to Upton; and the enumeration given shows what a number of articles there were. He wants everything he has packed and brought to Upton; hunting coats, other coats, hats, caps, of every sort and description, everything belonging to him, which of course would include linen, either plain or fancy; everything is to be brought to Upton. What became of all those things? The answer may be material hereafter. Of course he did not take his

hunting coats, or driving coats, or anything of that sort, to South America; what became of them? He would not, I take for granted, give them away—that was not his habit. Even his old regimental trousers he kept; they have been produced on this trial. All these things were brought to Upton; there is no trace of their having been disposed of or sent elsewhere. Upton within a few months of that time came into the possession of Sir James and Lady Tichborne. As to these things—which he did not choose to give away and which he would be likely to keep for his future use—for whatever may have been his intention—and I will discuss that by-and-by—on leaving South America—his intention on leaving England certainly was to come back to England, although at a remote period—the probability is, as he had a habit of taking care of his things, and not throwing anything away that might possibly be of use at a future time, that, either on one of three visits to Paris, which you will find he makes between the time we are now at and the time of his going away, he would take the things he wished to keep and leave them there, or that he left them at Upton, or at Thompson’s—a place he usually resorted to in St. James’s Place, London—in either of which last cases, Roger Tichborne being supposed to have perished, they would naturally be given up to Lady Tichborne, his mother, and Lady Tichborne not believing in his death, would in all human probability put them aside carefully. What those things consisted of we do not know, but the fact of there having been such things carefully kept at Tichborne, sent for by him to Upton, and thus brought into his possession shortly before he went abroad, without there being any trace of the things being afterwards got rid of, is a circumstance to be borne in mind in a future part of the case.

On the 28th of October, stabling for his horses, and everything for his reception having been prepared by Mr. Vincent Gosford, he goes to Upton, and the correspondence to which I have called your attention being before you, you will be enabled to judge—and by-and-by that will be one of the most important and critical questions in this case—whether from the 22nd of June to the 28th day of October, up to which time we have now arrived, Roger Tichborne ever set his foot in the mansion of Tichborne or in the surrounding neighbourhood. It is, with a view to your hereafter solving that question that I have, at some fatigue to myself, and I fear at great fatigue to you, taken you through this correspondence. You will see that from the moment he received that letter of the 1st of July from his aunt, his sense of indignation was aroused, and I must say I do not wonder at it. I cannot look at what Lady Doughty was then doing and writing, and the course she was pursuing, without thinking he was well warranted in saying she was “diplomatising,” and dealing disingenuously with him. It would have been much better for her to

have said at once, with her husband's sanction, "there must be an end to all communication, all relation, all hope of future union between you and your cousin; we must cut that short; though the wound may bleed, it must be seared; and all possibility of any recurrence of the former state of things put an end to." But she endeavours to get him to plight his troth to her daughter, while her desire was that the daughter should see some one she liked better, and who would be as eligible a match as Roger, or perhaps a better, in which case poor Roger was to be thrown overboard, and left to bear his disappointment and his sorrow in the best way he could.

Roger quite saw what was her drift; he says he "saw through it;" and I perfectly understand what he means by saying so; and when he declares positively that he will not go back to Tichborne except he has an express invitation from Sir Edward and Lady Doughty, as far as I can see, he never departs from that resolution: and most assuredly no express invitation was given, because we find the very proposal to come into the county is immediately met on the part of Lady Doughty by the most strenuous opposition and strong remonstrances addressed to him.

Then comes the compromise, the effect of which is that, instead of coming to settle in Hampshire, he accepts the loan of Upton, and goes to reside there. We shall trace his proceedings there when we resume to-morrow. For the present I bring you down to the 28th of October, on which day Roger Tichborne took possession of Upton, as lent to him by his uncle and aunt for the hunting season, in order to prevent his coming into the neighbourhood of Tichborne.

ONE HUNDRED AND SEVENTY-SECOND DAY.

Tuesday, February 3, 1874.

THE LORD CHIEF JUSTICE: Gentlemen of the Jury, at the conclusion of my observations to you yesterday, we left Roger settled at Upton which, as you remember, Sir Edward and Lady Doughty had offered him as a residence, as the alternative to his taking a hunting-box in Hampshire. This brought us to the end of October. Now the facts and dates of the correspondence in the ensuing months of November and December, at all events, the first half of December, will be, when we come to another part of this case, all important. I allude to what has been called the "sealed packet." When we come to that, it will be essentially necessary that you should be thoroughly conversant with every date and every letter; and inasmuch as I desire that, when we come to that part of the case, all this should be perfectly fresh in your memory, and I should therefore have to go

over it again with a view to that object, I think it better to pass over the correspondence of that period for the present.

I pass on therefore to two letters of the 16th of Dec., which refer to a circumstance connected with this period—not in itself of importance, except as one of the tests applied by Gosford to try the memory of the defendant, to see if he could recollect a thing that Roger would have been likely to recollect, namely, what happened in the pursuit of certain poachers on the island on the occasion of Roger being at Upton. He writes two letters of the 16th December, one to Mr. Gosford, and the other to Lady Doughty, giving an account of his pursuit of these poachers, who had come to the island to take the rabbits which were upon it. He writes to Mr. Gosford :

“ Upton House, Poole, Dorset.

“ MY DEAR SIR,

“ I have been since the 14th and 15th so very busy in pursuing poachers that I have had no time left to do anything else, but to cruise in the bay round the little Island. I have put 25 rabbits in the Island, and I don't know how they managed to know it in Poole the next day. Two days ago Moore came to my room, telling me that two men were shooting in the Island. I ran down to the shore, began to run as hard as I could towards the Island, when I and the man who was in the boat with me were within two or three yards from shore, the shooting party saw us, so that they ran for their boat as hard as they could, both of us jumped up to our middle in water to try to catch them, but we were two minutes too late. They began to row towards the Lime kiln, we began to chase them as hard as we could. When they saw that they made a circle and made for shore. We also made for shore; when they were within a quarter of a mile of us they seeing that we kept on the chase in good spirit, they made for Poole we made for Poole also. We arrived in the harbour five minutes after they left their boat there and ran away. I left my man to prevent their taking their boat away, and I went in my wet clothes all about the town to try to find them, but I could not find them anywhere. After this I went to make my report to the police office; the chief justice told me that they would take a great care of those two gentlemen as soon as they could find them. A great crowd was at my boat when I came back. I told them all that I had nothing to do but to go after poachers, and that another time I would not go after them, but smash their boats with my rifle, which I thought would save me much trouble. I had not been an hour and a quarter in my boat, which is good going, as I went nearly over 5 miles. My two horses are going up to London to-morrow, to be sold at Tattersall's on Tuesday. If you see Colonel Greenwood, will you tell him that my horses are to be sold on that day, as he has a fancy for one of them. Pray let me know by return of post what reserve

price you will put on my bay. I am going to Southampton to embark for Hâvre next day. Let me hear from you when I shall be in Paris. Pray remember me very kindly to Mrs. Gosford.

“ Believe me,

“ Yours Truly,

“ 16th December, 1852.

“ R. C. TICHBORNE.

“ P.S.—Any news.”

He writes to Lady Doughty :

“ Upton House, Poole, Dorset.

“ MY DEAR AUNT,

“ In want of a pack of fox-hounds in this neighbourhood I have began since the last two days a new kind of sport. I saw two men shooting on the island two days ago. I made for the island as fast as I could, but arrived, I am sorry to say, two minutes too late. I chased them to the limekiln, back again to Ham, and up to Poole, where I lost them.

“ I had a young man with me who had about as much idea of rowing as I have of flying, otherwise I could have come alongside of them. To my great astonishment I saw the account of it in the county paper, which I have forwarded to you to see that I have began a new kind of sport, which is not without its interest. I expect to receive one of these days a commission for the special purpose of destroying poachers.

“ I am going to embark at Southampton to-morrow for Hâvre. I shall remain in Paris till the time which I have specified in my last letter. If there is anything which I can do for you in Paris pray let one know. My horses are going up to London to-morrow to be sold on Tuesday.

“ Pray give my love to my Uncle and Cousin.

“ Believe me, My Dear Aunt,

“ Your very affectionate Nephew,

“ 16th December, 1852.

“ R. C. TICHBORNE.

“ P.S.—Pray excuse this hurried note—it is post-time.”

On the 17th of December, he left Upton on a visit to his father and mother at Paris, returning on the 31st, when he went direct to Canterbury.

The next letter of this period to which I call attention is one from Lady Doughty addressed to him on his return to Canterbury, from his visit to Paris, on the first day of the year 1853. “ Tichborne P^k—New Years Day. My dearest Roger We have just heard that you are returned to England. You are aware that dear Alfred is here and if you would like to see him your Uncle has just desired me to say that *he* and Alfred would have much pleasure in seeing

you if you could come here next Tuesday morning 4th & remaining *here* till Friday 7th, & will you kindly *then leave* & not let your Uncle suppose it to be your *last leave* taking"—the uncle was in a hopeless condition, and died two months afterwards—"but rather that it is probable you may meet again before finally parting—We *shall* be at Wardour & it is better, for however much I could have wished to have seen you at present it is better it should not be now. If you will enter into this *arrangement* & come, it will shew a kind feeling on all sides and I am sure we have no other—I fear you did not see Mr. Gosford yesterday though you were both in Town, he is to return this evening but he is extremely unwell and to be kept very quiet. By coming here you will have the opportunity of seeing him—the Nangles are also here & with our united kindest wishes for a happy new year I remain dearest Roger—Y^r attached Aunt K. DOUGHTY." Now I must say it is one of the darker traits in Roger's character (and it is not the only one) that he did not respond as he should have done to that invitation of his aunt. He may possibly have felt that he had cause of complaint and grievance against his uncle, and more especially against his aunt; but the uncle had been a second father to him, and he was evidently dying. Roger knew the state of health he had been in for some time, and he knew full well, as his subsequent letters show, that he should never see his uncle again. In leaving England he was leaving behind him a man who had been all affection and kindness to him, never to see him more. Yet so strong was his feeling of resentment against Lady Doughty, more especially when on asking him to come and see his dying uncle, she said that she and her daughter would not be there, that nothing would induce him to go. He writes to Mr. Gosford, on January 5th, "Many thanks for your last letter, which I had the pleasure of receiving half an hour ago. I received a letter from Lady Doughty last Monday, asking me to go to Tichborne on the 4th, and requesting me besides to have the kindness to leave on Friday morning the 7th. It is not certainly my intention to go to Tichborne, and if her Ladyship still thinks that she can make a tool of me as in former days she is, I must say, greatly mistaken. It would have been quite impossible for me to have gone down there at present, but even so if I had been at liberty I certainly would not have gone." It is to his disadvantage certainly, I must say, that the feeling of gratitude should not have prevailed over that of resentment.

I do not know that there is anything in the further correspondence up to the time of his leaving which I should call your attention to. I have only to state that between the end of October, when he settled at Upton, to the time he left this country—a period of four months—he paid no less than three visits to his father and mother at Paris. That is a fact not unimportant when we come to consider by-and-

by what were his relations with his family when he went abroad—whether there was any disunion, quarrel, or dissatisfaction in his mind, which would cause him to break off or suspend all correspondence or communication with his parents. It appears from the correspondence that he left Upton on the 5th of November to pay a short visit to Paris, leaving Paris on his return to Upton on the 13th of that month, so that he was away eight days. Again on the 17th of December he left Upton for Paris, and did not come back to Upton, but to Canterbury, where he rejoined his regiment prior to his sending in his papers and retiring from the army. He did not arrive at Canterbury until the 31st of the month of December, which again occupied a fortnight's time. On the 26th of January, just prior to his final departure, he is again in Paris. He writes, I think, on the 28th or 29th from Paris, stating that he had arrived there on the 26th. He writes from Paris to Mr. Gosford, and says he shall leave Paris on his return, on the 14th of February, which gives, therefore, a stay at Paris for a period of nineteen days on this last visit; from which it necessarily follows that the defendant cannot be right in stating that his last visit to Paris was only for a single day, or if for more, at all events only for a day or two; because these letters show, beyond all possibility of question, that he was there for nineteen days. Now it was on the occasion of that last visit, that some of the facts spoken to by the witnesses from Paris occurred. In the first place, according to the evidence of M. Châtillon and his wife, Roger breakfasted with them on the last day he was in Paris; he went to pay a visit to Châtillon, who begged him to stay to what the French call *déjeuner*, which is neither breakfast nor luncheon, nor what would be exactly interpreted by either of those terms, but is a sort of combination of both; and it was on that occasion, according to the evidence of the Châtillons, that the tattoo marks were seen by them on his arm. I think it was on that day, after breakfast—at all events it was on that visit to Paris—that Châtillon and he walked out together, and the silver chain was purchased of which Châtillon told us, and which Roger's father paid for. On that day the dinner took place, at which the few remaining friends of the father and mother of Roger assembled—M. d'Aranza, the Abbé Salis, and M. Châtillon. It was on the occasion of that visit also that Gossein saw him. Gossein had no idea that he was in Paris; he knew that Roger was in the English army, and was surprised one day as he was walking, to hear his name pronounced, and on turning round he saw that it was Roger, whom he recollected though he had not seen him for some years. Roger was glad to see him, took his address, and said he should call upon him and have a chat with him, and did so; and so the recollection of Roger was revived in the mind of Gossein. He was much surprised to find that he had left the army and was going to

travel in South America, but Roger explained that “there were family reasons.” That is Gossein’s last recollection of him. On that occasion it was that Burden, who had taken Gosford’s place in the service of Mr. Tichborne, tells us he attended him on the night before his departure, when he was suffering from asthuma, or some affection of the throat, which he thought was consumption, and he got a poultice for him.

The time now arrived for Roger Tichborne’s departure from England; he had taken his passage in the ship ‘La Pauline,’ and it is not unworthy of observation, as showing an eye to business, and how careful he was about money, that he mentions, in one of his letters to Mr. Gosford, as a reason for preferring a French ship, that he found he could go to Valparaiso in a French ship cheaper than he could in an English one. He takes his passage in this vessel ‘La Pauline,’ which was then about to start for Valparaiso. The ship set sail from Havre on the 1st of March, but met with contrary winds and stormy weather, and after beating about in the Channel for some little while had to put back again into Cherbourg roads. She took her departure from thence on the 3rd of March, but was again met by baffling winds and bad weather, and on the 8th of March she was still in the English Channel, and obliged to put into Falmouth. There she remained for four days, wind and weather-bound; and, in the meanwhile, Roger writes home to inform them of the mischances he had met with. On “February 9th”—which is obviously a mistake for March 9th, as we know he did not start from Havre until the 1st of March, and the post-mark is “Falmouth, March 9, 1853”—he writes: “My dear Aunt, We have been obliged to get in the harbour on account of contrary winds which we have had very nearly since we left Hâvre yesterday week. But fortunately there is a change likely to take place in the weather, so that I am happy to say we will be able to sail this afternoon. Our passage from Hâvre here has been rather slow on account of the wind, which has almost always been against us. But I certainly hope that this evening we shall be able to sail and not remain in this place longer than we can help it. It would be rather difficult for me to give you a description of the life which we lead on board ship. We are only three passengers, myself, Moore, and another passenger who is generally sick. The ship is a very fine and comfortable ship, the cabins are large and comfortable, and has we have”—here is an instance, out of one or two, in which he uses the aspirate in writing the word “as” when of course it ought not to be there—“the advantage to have a very good cook on board, we have very very good dinners and breakfast, which I can assure you I enjoy much. As there is not much to be done on board, I have taken to read and studying Spanish, which will be very useful to me in my travels. I am happy to say that I am remarkably

Departure
from England.

well and in very good spirits which I hope I shall keep on to the end of my travels. I sincerely hope that my Uncle feels himself better. Pray give him my love, as also to my Cousin. I don't think it likely that I shall be able to write to you again till I arrive at Valparaiso, unless some opportunity should occur by which I might send letters to England. Believe me, My Dear Aunt, Your affectionate Nephew, R. C. TICHBORNE. P.S.—I am greatly in hopes to have the pleasure of finding a letter from you at the post office, Valparaiso." So that, you see, not only was he at Falmouth, but he writes to his aunt as to the position they were in at that time. They expected to sail that evening, but they did not sail, as appears from a subsequent letter we have from him, till the 12th of March. The stay at Falmouth, therefore, was a stay of four days, and it is a thing which one would suppose he would be likely to remember. It is necessary to mention this, because, as one of the tests used to try the defendant's memory, he was asked whether they put into any port while the ship was on her way to Valparaiso, and at first he had no recollection of anything of the kind, though, on a subsequent occasion, he said he did remember it. That you will find by-and-by when we come to deal with that part of the case.

Now, the ship, having sailed from Falmouth on the 12th of March, arrived at Valparaiso on the 19th of June. This is shown by the correspondence to which I am about to call your attention. We are now about to enter on a very critical and very interesting period, when I shall have to ask your very careful attention to facts and dates. We are about to enter upon ground trodden by Arthur Orton, and a third person will appear on the scene. The defendant stands, as it were, between Roger Tichborne on the one hand, and Arthur Orton on the other. The question is whether he is the one or the other, or, possibly, a third person. Now, the letters to which I am about to call your attention have, unfortunately, been printed with remarkable inaccuracy; there is scarcely a line in which there is not some mistake. Those who transcribed the original letters with the view of their being printed, must certainly have done it very carelessly. At the same time allowance has to be made; the letters are long; Roger wrote a remarkable, but, at the same time, more or less, illegible hand, more especially when writing rapidly, as he appears to have done when writing of these long letters; and he had the abominable habit, which some people will persist in, of crossing his letters; and the consequence is they are very difficult to make out. It occurred to me that there must be very grievous mistakes, and I took a course of which I am sure everyone will approve—I asked our excellent and indefatigable officer, Mr. Davis, to be so good as to go through these letters, collate them with the originals, and mark with

red ink all the inaccuracies he found, so that I might have a perfect printed transcript of the letters of Roger; and therefore what I shall read to you, you may perfectly rely on. In the first place, it appears that Roger, arriving at Valparaiso on the 19th of June, found no letters from England as he had expected, and he did not move from Valparaiso until he had received intelligence from England. He did not get any until the 29th of June, and then he got no letters from any one except Lady Doughty, but her letter contained important news: it informed him of the death of his uncle, Sir Edward, who had died while Roger was still in the Channel, namely, on the 5th of March, 1853. On the receipt of that intelligence he writes to her thus: "Valparaiso, June 29, 1853. My Dear Aunt, I felt very deeply indeed the sad news which I learned only a few moments ago by your last letter. I felt it much more as I felt almost certain that my Uncle would have recovered from the sever attack of illness which he had when I left England. I have always been though perhaps I never shewed it much sincerely attached to my Uncle, he has always been on all occasions very kind to me. I was not certainly able to show it as much as I could have wished, but I felt nevertheless as deeply for him as I could. I never saw my Uncle's death in any newspapers at Falmouth. I looked as soon as I came here over all the old English newspapers, but I could see nothing. As I learned by your letter that you were going abroad it is not likely that any of my family will see or hear of this letter, and of the private remarks which I may make in it. I am not as you are perhaps aware of on very good terms with the whole of my family. All the causes of that disunion I know perfectly well. It is I believe better for you not to know it at present (at least by me)"—What he means by "the whole of my family," and "all the causes of that disunion," I have been unable to fathom satisfactorily to myself. So far as we know, there was no disunion between the different members of the Tichborne family; and all the disunion which could at all have affected his position was, that his father and mother were perpetually quarrelling between themselves, and that the mother had contrived to embroil herself with, or, at all events, to engender coldness between herself and the different members of her husband's family, whom she had always treated with very great disregard: what else it can refer to I have no idea.—He continues "All those different reasons which I had fully time to take to their full value when I was last in London and Paris make me thank heaven that I was quite out of the way at my Uncle's last moments (though it may have appeared strange to many persons). It would have been quite impossible for me to have been able to keep my temper in the middle of all the different parties which exist in the different branches of the family"—I have not the most distant idea of what that referred to—"It would have been moreover

impossible to have put up with my Father's and Mother's character. We sailed from Falmouth on the 12th of March at 9 o'clock at night by a very stormy wind and a very heavy sea, which were fortunately all in our favour; the wind was so strong that we went during the whole night at the rate of 11 or 12 miles an hour, we had a sail or two torn during the night. The wind kept on favourable for about a fortnight or three weeks. Towards the latter part of the month we came in sight of the Pic de Teneriff, which I saw quite plain, though at the distance of more than 90 miles from it. On the 2nd of April I saw for the first time the flying fish, and as several had fallen on deck during the night, we had them for breakfast the next morning, I never tasted such a good fish before. We crossed the Line on the 10th of April at 10 o'clock at night. We had about a fortnight or three weeks of very calm weather near the Line, the heat during those calms was intense. The hottest day"—spelt with one "t"—"I ever felt was during the first week in April, the thermometer went up to 130 degrees in the sun at 12 o'clock. The wind kept on much more favourable when we had passed the line. When we were near the Strait of Magellan, when I was taking my usual walk on deck after breakfast, I saw quite on a sudden at least 15 or 20 whales quite near the ship sending water in the air as so many *jit d'eau*. We came near Cape Horn towards the middle of May, and as the coast is dangerous, captains always keep as far from it as they possibly can, so that we went as low as the 62nd degree south. The cold there was intense, any water falling on deck was frozen up directly"—"frozen" for "frozen"—"but what was the worst of all were the long nights. We had only six hours of daylight and 18 hours of night. We remained there 15 days before we could get round Cape Horn. When we came into the Pacific Ocean the weather came—" he always writes "came" for "became"—"gradually milder and days longer. I arrived at Valparaiso on the 19th of June at 12 o'clock. I was not able to go on shore that day, it being a Sunday. I spend my time very agreeably during the passage, the captain and his two officers were very nice sort of persons. I used to spend my time in reading, or as there were always a great many sea birds following the ship, I used to amuse myself in catching them with a fishing line or shooting them with my gun. There was only one passenger on board with me, who has been more or less sea-sick during the whole time. I am happy to say that I never had a single moment of any kind of illness ever since I left. If you answer my letter by return of post you had better direct it here. As we are now in this country at the beginning of winter (though it is as warm as in England in summer), I intend sailing on the same ship in which I came for Arica, Coquimbo, and Lima, to visit the north of Chili and the south of Peru during the winter, to see all the copper and silver mines which are

in that neighborhood. If you are not able to answer this letter by return of post, you must direct your letter to Buenos Ayres or Monte Video, where I shall go towards spring, when I have visited the south of Chili, which I intend doing in spring. I have not time to give you a description of Valparaiso in this letter as I have so many letters to write to day. Pray give my kindest love to my Cousin, and tell her that though far away I feel deeply how this moment must be painful to her, and moreover that if ever I can be of service to her to make use of me by letting me know what I can do for her, as it will always be a pleasure for me to oblige her in every possible way I can." In this letter he inserts, as he had often done on former occasions, a private letter of the same date-- June 29th: "My dear Aunt—I should not have written this private note if circumstances had not forced us to some kind of explanation and it was not my intention to remain a long time out and far away from England. The letter to which you allude to at the end of yours"—we have not got that letter, and therefore can only conjecture what it was—"the letter to which you allude at the end of yours has certainly produced a deep impression on my mind because a person who has given his word of honour as a Gentleman that he was doing his best to correct certain faults which he had and acknowledged, he cannot but feel deeply if he is told in plain terms that his word is worth nothing and that he is in fact *a liar*. There is always a way of refusing a persons"—there is some word left out there—whether "request," or "suit," or what I do not know—"there is always a way of refusing a persons without making such strong allusions. But however it is now passed. I have not the slightest rancour against you for those words which have been said I hope without thinking about it but at the same time it is very difficult to forget it altogether. It is not likely as I have told you many times before that I shall go to Tichborne to make any long stay and moreover it is not my intention to go back to England for *some years to come*. I have thought that I might write this note hoping at the same time that what I have said wont offend you. Though I fully expect to be far from England for such a length of time, if there is anything which I can do for you and my cousin it will always be a pleasure to oblige you both to the utmost of my power. You may rest assured my Dear Aunt that what has passed between me and my cousin (though I feel as much attached to her as ever I was) has nev been told by me to anybody and moreover never will be spoken by me to any living soul and that I shall always be happy to do anything in the world I can for her. I little thought a short time ago that I would write a private letter again." Then he says: "I intend as you know visiting all South America and Mexico which will take me about 18 month. I intend afterwards embarking for

India. But those are plans too far distant to be of any interest to you at present." This shows what his intentions then were: to travel in South America, and go thence to Mexico, which he said would take him 18 months; and then to go to India. He writes on the same day to his father, and this letter shows that the defendant was wrong when he said that on arriving at Valparaiso he found letters from his father and Mr. Gosford, from which he learned the fact of his uncle's death. Roger got no letter from his father; he got no letter from Mr. Gosford. The only person who did write him a letter was Lady Doughty, which letter he refers to in the one I have just read. To his father he writes: "I am perfectly at lost to find out why I have not received any letters from you since my arrival here. I learned the sad news of my poor Uncle's death this morning by a letter which I received from Lady Doughty. I felt it so much more as I never expected to receive such a painful intelligence." Then he goes on to narrate, in very much the same terms, the incidents of his voyage out. As I have just read them to you from the letter to Lady Doughty, it is unnecessary to travel over the same ground again. Finally he concludes: "If you answer this letter by return of post you had better direct here, because as we are at the beginning of winter, though it is as warm as in England in summer, I am going to sail in the same ship in which I came at the beginning of July for Arica, Coquimbo, and Lima, to go and see the copper and silver mines which are to be seen in the north of Chili and the south of Perou. I shall go and visit those places in winter and at the beginning of spring I shall work my way to the south. If you are not able to answer this letter by return of post you must direct your letter either to Buenos Ayres or Montivideo where I shall go when I leave Chili." I call your attention to this as being contained in the letter to his father as well as in the one to his aunt, because the letter was kept by Lady Tichborne, and has passed through the hands of the defendant, and is before us now. Then he gives his father an account of Valparaiso, which, however, is unimportant to the present inquiry, and which, therefore, as there is so much to do, and to read, I pass over. He writes to Mr. Gosford on the same day, June 29th, "I am perfectly at a loss to find out why you have not written to inform me of my poor uncle's death. I thought in all cases that you might have written me a line, if only to inform me of the different changes which that deplorable event had caused. I suppose that by this time my father and mother must be settled at Tichborne. I suppose that you must have found it very difficult a matter to please everybody, and I am sure that you must have great difficulties now. The only letter which I received this morning was from Lady Doughty, who gave me the sad intelligence. I am also very much surprised at not having received any

letters from my father since my arrival here. I cannot make out why he won't write to me." Then there comes again a description of his voyage, very much in the same terms as in the two former letters. Then he says: "I have not, I am happy to say, had a single moment of any kind of illness ever since I left. It was not the case with the other passenger, who had been more or less sea-sick during the whole time"—You will find questions put in the cross-examination of the defendant about there being any other passenger or passengers on board the vessel—"If you answer this letter by return of post, you had better direct it here"—giving the same reason, and naming the different places he is about to visit, in just the same terms as in the former letter. "If you are not able to answer this letter by return of post, you must direct it to Buenos Ayres or Monte Video, where I shall go, on leaving Chili"—then he adds: "I thank heaven that I was not at Tichborne when my Uncle died, though many persons may think about it, that I was quite out of the way, because it would have been quite impossible for me to put up with the different parties which exist in the family—my father and mother especially."

Thus, we see, he had made up his mind to go northward from Valparaiso, and visit the north of Chili, and the south of Peru, and his first stage was to go by the same vessel he had gone out in, to the seaport of Arica; but the vessel, the 'Pauline,' did not start as early as he had expected, some circumstance or other, connected, I suppose, with her cargo or destination, having led to delay. He took the opportunity of that delay to make a visit to Santiago, the capital of Chili, as appears from the letter which I am about to read. You will find that he left Valparaiso for Santiago the day after he had written the three letters of the 29th of June, and he arrived at Santiago on the 2nd of July. He stayed there until the 6th, and then set out on his return to Valparaiso. He sailed from Valparaiso on the 27th July for Arica. Now, it would take two days to get from Santiago to Valparaiso. Between the 6th and 27th there would be nineteen days; but if you take off two days occupied in the journey from Santiago to Valparaiso, that would leave seventeen days available between his departure from St. Iago, which, from the letter I am about to read presently, was on the morning of the 6th, and his leaving for Arica; and there will shortly be a question whether he availed himself of those seventeen days for the purpose of going to a place which becomes of paramount importance in this cause, called Melipilla. At present I pass that question by, but will come back to it somewhat later. The letter I have referred to is one written to his mother after he had got to Lima, in which letter he gives an account of his journey from Valparaiso to Santiago and back again, and then of his further progress to the north. · On that letter—on a passage in

that letter—on a word in that letter—may hang the solution of this cause; and therefore I am not wrong when I say it is necessary carefully to follow it, to weigh the words of it, and to pay the most accurate attention to the details which Roger himself gives in it. But before doing this let us first follow him on his onward course. He goes to Arica; thence to Callao; and thence to Lima. Having stayed some time at Lima, and visited its institutions, he goes on to Guayaquil; he goes up the Guayaquil River with his servant and two Indians, and remains some time in that neighbourhood, shooting the birds of various plumage with which the tropical climate abounds, and then he comes back to Lima, to Callao, and takes, as he says, the coasting steamer, which brings him first to one of the seaports on the coast, and then finally brings him back to Valparaiso. He arrives there some time before the 20th of December; for he writes on the 20th of December a letter to which I shall call attention presently, and says he is about to go from Valparaiso to Santiago for the purpose of taking his departure across the Andes and the Pampas to Buenos Ayres and Monte Video. Going from Valparaiso to Santiago, on the second journey as well as on the first, two routes were open to him; the hill route, which is the shorter one, but involves crossing a series of, I may almost say, mountains, certainly immense hills, and the longer but more circuitous route, where you have to make a considerable angle, but which is a lower and less hilly route, which goes through Melipilla. Thus, you see, he went twice to Santiago from Valparaiso. On the first visit he went back from Santiago to Valparaiso; but the last time he went to Santiago, he started from thence to cross the Andes, and never returned. On no other occasion, at no other time, and in no other way could he have been at Melipilla, except when going from Valparaiso to Santiago the first time, or going back that time from Santiago to Valparaiso, or on the last occasion of his going from Valparaiso to Santiago. Whether Roger stopped at Melipilla on either of those occasions is one of the main leading questions in his cause. If on hearing his letters read, you should be led to think that he did go to Melipilla, we are just where we were before; but if you are satisfied he did not go to Melipilla, the defendant's case falls to the ground; because most undoubtedly the defendant was at Melipilla. He not only has put that prominently forward in his case, but it is owing to his intimacy formed there with Thomas Castro that he accounts for having assumed the name of Thomas Castro while he was living in Australia. That Arthur Orton was at Melipilla is a fact about which, when you come to look at the evidence, you will not be able to entertain a shadow of doubt. The defendant, therefore, was at Melipilla, and Arthur Orton was at Melipilla. Supposing you come to the conclusion that Roger Tichborne was not there, it

certainly would not be logically true, that because Roger Tichborne was not at Melipilla and the defendant was, and Arthur Orton was also, therefore the defendant must be Arthur Orton; but no doubt it would be a considerable step in that direction, and would be a very material circumstance to take into account with a view to the affirmative of that proposition. On the other hand, it is logically true, and it is irresistibly true, that if Roger Tichborne never was at Melipilla, the defendant cannot be Roger Tichborne; because he could not possibly have been Roger Tichborne when at Melipilla, if Roger Tichborne never was at Melipilla. In that case he could not have been there at any instant of time in the person of Roger Tichborne. Hence it becomes of the last importance and moment to satisfy ourselves on this question: Was Roger Tichborne ever at Melipilla?

By the JURY: Does not the length of stay enter very materially into it?

The LORD CHIEF JUSTICE: No doubt.

By the JURY: Seventeen days is the maximum of time he could be there.

The LORD CHIEF JUSTICE: There is no question that it will be of infinite importance when we come by-and-by to the correspondence of the defendant, and to reason upon it, to see whether it is possible that the extent of the acquaintance and intimacy which that correspondence exhibits could have been attained in the short space of less than three weeks. It is not, however, so much with a view to that (although it is a question we must carefully consider by-and-by), that I propose now to consider Roger's correspondence. I want to see whether in these letters there is internal evidence, one way or the other (I will not say which—that is for you to determine), of the fact of Roger Tichborne having been or not having been at Melipilla. Now we have here a letter to his mother, every word of which requires attention; it is dated from Lima, the 25th of August, 1853. "My Dear Mother, Many thanks for your letter dated 23rd of May, which was brought to me on board as soon as the Ship had thrown her aneres"—that is a French expression—"in the harbour of Arica. I hope that you will excuse this letter as it is nothing more than an extract from my daily journal." So that we see he was keeping a journal during the time he was travelling from place to place in South America, and noting in it all the incidents of his travel. It is not like a man writing a hasty letter, in which he seizes upon something which may interest the person to whom he is addressing himself; it is a man recording for his own satisfaction, and for his own recollection hereafter, the incidents of his travels; in which,

therefore, he would be apt to put down, not so much what may be interesting to other people as that which is interesting to himself. I observe this, because it is perfectly clear, that throughout these letters, in which he gives the details of his journeying, there is not only no direct mention, but not even any allusion, however indirect, to his being at Melipilla; and it is in that respect that it seems to me important to observe that it is an extract from his journal, because it strikes me (I do not say it must necessarily be so, but it is what one might naturally and reasonably expect) that, supposing a man was detained by any accident in a place in itself of no particular interest, but where he met with hospitality far greater than he could have possibly expected, the place would thereby, from the pleasant recollections associated with the hospitable treatment he had there received, acquire an interest in his own mind which it otherwise would not have; and it would therefore be natural to expect, that although the place might not have any other interest than a purely personal one, he would still put down the fact that he had stopped at such a place, and had been hospitably and kindly entertained. But there is no mention of Melipilla in any of his letters. The question, however, is whether you can collect from his letters that he did not go to Melipilla. He continues, "The day after I had written to my Father I started on an excursion"—he has repeated the "ur" in excursion twice—a mere blunder, I should think, because I find he elsewhere spells the word right—"I started on an excursion to San Iago which is the Capital of Chili. I was obliged to take for my journey one of those wonderful carriages which go from Valparaiso to San Iago, those carriages are nothing more than the old style cabriolet with"—it is a question whether it is "those" or "three;" Mr. Davis has not been able to make it out—"horses and two postillions. As there are no posthorses on the road about a dozen loose horses followed my carriage, as soon as they wanted to change horses they caught one of the loose ones with their laso's and put them to the carriage and let these other ones to follow at liberty. The distance between Valparaiso and San Iago is 75 miles. As it is the custom I stopped and slept half way. All the road between the two towns is remarkably hilly, the country is not I must say very fertile for the want of cultivation, the only trees which I saw all the way were large Palm trees which are certainly beautif"—the "ul" is omitted—"But the scenery came finer and finer as I came nearer to San Iago. I saw from the top of those very high hills over which I was obliged to go an immense range of the Cordilleros of the Andes which was certainly magnificent. I arrived at San Iago on the 2nd of July at about 6 o'clock in the evening." Now this makes it perfectly clear that, having left Valparaiso on the 30th of June and arriving at Santiago on the 2nd

of July, he could not on that journey have made any stay at Melipilla even if he took the road through Melipilla; which, however, as he speaks of the lofty hills over which he had to pass, I infer he could not have taken, but must have gone by the hill route. At all events, on that short journey any stay at Melipilla is out of the question. He proceeds: "The next day being Sunday I went to church, for mass. I afterwards went to look at several others. The churches in this part of the world are build"—instead of built—"in the Spanish fashion, that is to say with very little appearance outside and decorated with little or no taste inside with a profusion of gold. The next day I went to see L'Ecole des Arts et Metieris which gave me the idea of a very small English factory"—that next day is the 4th—"From there I went to the Zoological Garden which I suppose on account of its being in the middle of winter was not in a fit state to be seen. When I had seen all the curiosities I came back to my Hôtel. In the middle of the night"—that is the night between the 4th and the 5th—"my servant J. Moore was taken very seriously ill. The landlord and about half the waiters in the hôtel began to go all about the town at about two o'clock in the morning to find a Doctor, but could find none. I went in the morning"—that is of the 5th—"at about 7 o'clock and found one. After I had explain what kind of illness Moore had, that it was the 3rd attack of the same kind that he had had in less than a month, and that he had thoroughly looked at him he told me that he was not at all fit to travel but must remain some time at Santiago and then go back to England. As soon as I heard so I went to settle all about with Moore. When I had settled all about"—there is something left out here, I do not know what—"When I had settled all about with him I made my arrangements to start the next morning"—that would be the 6th—"as I was anxious to be in time for La Pauline which was to sail shortly for Arica. When I arrived there I found that she would not sail so soon as I had thought at first."—I shall come back to that passage presently, and you will see how vastly important a question is involved in the language of that single passage. But before I do that I shall first have to notice another letter written to his father, which I will call attention to presently. He goes on: "I sailed from Valparaiso for Arica on the 27th of July. We had a very fair sailing. We arrived at Arica on the 11th of August I went on shore the next day to see what was to be seen but it was so little that it is scarcely worth mentioning. I left Arica on the 20th on board one of the Pacific Steamers for Callao and Lima where I arrived on the 23rd I found when I was at Valparaiso"—you will observe that Moore had been taken ill and left behind at Santiago while Roger came on to Valparaiso to resume his place on board the 'Pauline' to go to Arica, and he wanted a servant; and he now tells his mother what

sort of a servant he got. The defendant stated in his examination that having left Moore behind, the captain of the 'La Pauline' allowed him to take one of the people of the 'La Pauline'—the second mate or carpenter, I am not sure which—as his servant. Is that consistent with what Roger writes to his mother—"When I was at Valparaiso a Frenchman who had 18 years certificate as good ones as I could wish to find any where and the very high character which I received from him from everybody made me take him as I wanted a valet to come with me"? Does that refer to a man who had been servant as valet with eighteen years' certificate of good character, or does it refer to a man who was one of the crew of the 'Pauline,' and who was ceded by the captain to Roger out of consideration for him, seeing he was without a servant? If you think the term "a Frenchman who had 18 years certificate," and of whom everybody spoke well, and whom he took as a valet, was a man who had been a servant before, and whom he took in consequence of the high character he had as a servant, this certainly would be inconsistent with the statement the defendant has made, and which I have adverted to now in order not to have to come back to it hereafter. Roger further says: "My health has been remarkably good ever since I left Europe. I have not had a single moment of any kind of illness of any kind whatsoever ever since that time. I am going to start in a few days for Quito from which place I shall (that is to say if I have time) write to you or my Father a short letter. I shall not remain there above a few days, but come down again to Valparaiso or San Iago to go to Buenos Ayres and Montividio by land. So when you answer this letter pray direct it to either of those two places where I shall find any letters directed to me as I shall be there in either 6 weeks or 2 month or perhaps later I cannot exactly say the time of my arrival in those two towns. When I shall be there I shall let you know where you are to direct the other letters. Don't direct any letters to me to Valparaiso or San Iago because I would not receive them. I have not the slightest doubt that you will like Tiebborne very much, the climate is there very mild in winter. You had I am sure much better remain quiet in a comfortable English house than to go all the way to be uncomfortable Station house in Rome"—I suppose the words "at a" are omitted.—"I know very well that for my own part I would not change. I was very glad to learn by your letter that you my Father and Brother were all quite well I sincerely hope that you may all keep so for a long time to come." He writes to Mr. Slaughter on the same day, and says: "In consequence of my poor uncle's death many changes must have taken place in the family affairs in which you and Mr. Gosford must have been obliged to come forward to use the power of Trustee which I have given you both before leaving England. Knowing how important

it would have been for me to know as soon as possible the different alterations which has been made of late in the family settlements, I am perfectly at loss to find out why I have not received any letters from either you or Mr. Gosford since my arrival in America." So that even as late as the 11th of September he had received no letter from Mr. Gosford. Next he wants his credit increased, and he says: "I should feel much obliged if on the receipt of this letter you had the kindness to go to Messrs. Glimy and Co.'s office"—he certainly meant Glyn's; whether that is a mistake in writing or copying he clearly meant Glyn's.

By the JURY: When we saw that in the original we thought it was "Gling."

The LORD CHIEF JUSTICE: That is very possible; the master says it is "Glimy."

By the JURY: I am sorry to think differently.

The LORD CHIEF JUSTICE: It is of no great consequence.—"to go to Glimy and Co.'s office to inquire if it is necessary in consequence of the increase of my income to change the letter of Credit which I received from him the day before I left London"—on the death of his uncle the 500*l.* a-year secured to him by the settlement of 1850 became increased to 1000*l.*—"which is of 2000*l.* for three years for one of 3000*l.* for the same period of time, which will be nothing more than the full amount of my income. I should also feel obliged if at the same time you had the Kindness to mention to Messrs. Glimy and Co. that he would send at the same time a letter by which I might draw some money if I am in want of it at Rio de Janeiro and Bahia which are two towns through which I shall pass on my way from Motivideo to Mexico. I have inclosed for that purpose a number of my signatures which he may require to send in those different towns. I should feel greatly obliged if you had the kindness to answer this letter and direct yours either to Buenos Ayres or Montevideo where I expect to be in about three or four months if not more." He writes also to Mr. Gosford, and says—"It is quite impossible for me to account why I have not received any letters from you since my arrival in America." He continues—"I have written by this post to Mr. Slaughter to try to get some kind of information about the different changes and to what extend you have been both obliged to use the power of trustees which I have given you before leaving England. I have no doubt that my Father has been wishing to make some alterations in some of the different family Settlements, which changes would have been very useful for me to have known as soon as possible." We now know that the father had a power of making a provision for his wife, by a charge on the

Doughty estate, which power he exercised, and it is probably to that power, which Roger may have known of, that he is referring. The passage further shows the interest he took in these matters.—“I have send back to England on board the same ship I came two boxes containing some of my linen and cloths”—which you know is his way of writing “clothes”—“which I don’t want. I have directed those parcels to you, I should therefore feel much obliged if you will had the kindness to pay what little expences it may cost from Hâvre to Southamton. If you answer this letter, pray direct yours either to Buenos Ayres or Montevideo, where I expect to be in about three or four month, if not more. Pray remember me very kindly,” and so on. Here we have the same regard to saving his things which we have seen on former occasions. He had taken out with him things which he had found useless in the climate of South America and an incumbrance in travelling. Most men would not have thought it worth while to send such things home, and would have made a present of them to a servant or anybody else. Not so Roger; he packs them up carefully, and sends them to Mr. Gosford to be taken care of.

He writes again to Mr. Gosford from Lima on the 25th November, “I should feel much obliged if you had the kindness to forward the enclosed letters to their direction. I have no time to write any details about my travels at Guiaquile by this letter, as I only arrived here yesterday and I am starting to-morrow for Valparaiso, and from there to Buenos Ayres and to Montevideo. I am in great hopes of finding some letters from England at either of these places. I shall nevertheless call at the post Office at Valparaiso to see if you have at last taken the trouble of letting me hear from you.” So that even at this time he had never heard from Mr. Gosford. “Will you have the kindness to give my love to my Father and Mother, and tell them I shall write to them from Valparaiso. My direction will be at Rio de Janeiro, Write to me to that direction.”

He writes again to Mr. Gosford on his arrival at Valparaiso on the 26th December, and that date becomes an important one. “My dear Sir,—Are you dead or alive? What on earth is become of you? I have enclosed in this letter a letter for Lady Doughty which you will have the kindness to forward to her as soon as received wherever she may be”—Still anxious to keep up his correspondence with Lady Doughty, however angry he may be with her—“I fancy that she must have taken a house in London. I have forwarded from Lima through my agent, Mess^{rs} Huth, Grüning & Comp, two large boxes, one containing a collection of skins of very fine birds which I have killed, and prepared the skins myself, which I intend to have set up properly on my return to England, they are in a tin box; the other is a fine collection of old paintings which came from some of the old convents which”—here Mr. Davis has succeeded in deciphering some

words which the printer or transcriber had given up as hopeless—"which some monks had in Lima during the Spanish dominion. There is besides the paintings a very fine picture book of the New Testament and the Acts of the Apostles which is from the best Artists of the old school. It is a book which is worth more than 40*l.* in England and which I should be very sorry if it was lost or spoiled. There is besides that a lot of different curiosities which I picked up in Lima and elsewhere. Mess^{rs} Grüning & Co. told me that he would put those 2 boxes on board the *Britania* a 900 ton ship which was to sail shortly from Callao to London. She was to have left Callao at the beginning of this month. The passage is of about three months from Peru to London. I should feel much obliged if you would have the kindness to write if you are not in London at the time to Thompson to have somebody on the look out when the ship will come into docks. There will be nothing more to pay than the custom house which will be very little. There is a small skeleton of about 7 inches high, which is in a glass case. I wish you to take it out before you show the paintings to my Parents and keep it for me. There are besides some beautiful crosses and statues made by the Indians. Those pictures must be hung up somewhere till my arrival which won't be for some time to come. Be so kind as to be very particular about those two boxes, because I had so much trouble in getting the birds which are beautiful and the paintings book and curiosities which are in the other. I had sooner you kept the box with birds in a very dry place in your house because I think that they will be better taken care of there than at Tichborne. I am going to cross the Cordilleras of the Andes in about a fortnight on my way to Buenos Ayres. I shall go from Mendoza right across the Pampas. I shall write to you from there. I have no time to write more now. Don't mention at Tichborne that I send you my letter for Lady Doughty." Then follow the shipping documents relating to the boxes which he had sent over.

On the 20th of December, when he writes that letter to Mr. Gosford, he writes also to his aunt. "I hope that you won't be offended at the long delay which has taken place since I have written to you last when I give for excuse that I have ever since the beginning of last July been rambling all along the coast"—instead of "coast"—"from here as far up as Guayaquil, and from there I went about three three hundred miles in the interior of the country. I stopped at several places on the coast where I thought there might be something worth seeing. I made a longer stay at Lima than I had thought of doing at first, because there was much more to be seen in the town than I had thought at first. Lima is a very large town, the finest which I have seen on all the coast. The inhabitants of Lima are, as far as appearance goes, remarkably religious. The town has within its walls

72 churches, without counting all the different convents of men and women of all orders which are in Lima. The riches which do exist in some of the principal churches is something quite wonderful. The cathedral among others, which is a large and fine church, has all the ceiling thickly gilded, and above the altar there are 4 pillars which measure about 18 feet high by 3 feet in circumference, which are made of silver. I shall say nothing more of the other principal churches, which are all decorated in the same way. What I found to be very picturestue"—written with a "t" instead of a "q"—"was to see every evening all the country people in their national dresses talking or sitting all round the large square on benches which are desposed for them. I went to see the bull-fight, at which I was (as you may easily fancy) much interested. It is a kind of rendezvous for all what Lima has of aristocracy and fashionable. I am sure that there are very few towns in the world which can boast of having such a number of remarkably handsome young ladies as there are in Lima. I never saw before such handsome young women as those belonging to the highest class of society as in this part of Peru. I also went several times to see the cock fighting, which is a great sport in this part of the world. When I had seen all what I could see in Lima, I embarked at Callao on board a sailing vessel to go to Guayaquil. We were about seven days going. The river from the sea up to the town is very large and the scenery on each bank is magnificent"—written with an "i."—"The only thing which I found very disagreeable was the quantity of flies of all kinds, which began to fly and sting the moment you appeared on deck. There is not much to be seen at Guayaquil except that the houses are build rather differently from what they are in other parts of South America. There is on each side of each street very wide arcades which are made to give some kind of shelter against the sun which is extremely hot in summer, and the rain in winter. Two days after my arrival in Guayaquil I looked out and found a boat without much difficulties"—he commonly uses this word in the plural, after the French mode—"to go up the river. I was obliged though before I left to take provision with me for a fortnight. When I had everything ready I got it on board one of those long boats which are made by the Indians to go up the river. We were two together"—it had been originally printed, and this seems to have misled the defendant's counsel—"we were to go there, and had two Indians to manage the boat;" but when Mr. Davis came to collate it, it turns out to be "we were two together, and had two Indians to manage the boat"—In a subsequent letter it also appears that he had his servant with him—"We went up as high as the line. The heat about there was something fearful, it was impossible to do anything but sleep from 11 to 2 and set at work afterwards. I had very good sport up the river. I killed some very fine birds, which

I used to take to the boat and prepare their skins. I have send a large box from Guayaquil to England of the most curious birds which I have been able to kill in the Tropics. I made several other excursions afterwards, but not for such a length of time. I left Guayaquil at last to come down and spend few days in Lima before I embarked on board the Pacific steamer for Valparaiso where I am now. I shall not remain here more than a week. I am preparing as fast as I can to cross the Cordilleras of the Andes." You see he is writing on the 20th, and says, "I shall not remain here more than a week;" that would bring us to the 27th; on the 30th or 31st we shall find him at Santiago. He goes on: "I am preparing as fast as I can to cross the Cordilleras of the Andes, and go straight across the Pampas to Buenos Ayres and afterwards Montivideo. You can easily see the road which I shall follow by looking at the map. I shall go from there to Santiago, from there to St. Philip, from there across the Cordillera and come down at Mendoza, from there across the Pampas to New Cordova, from there to St. Fé, and from there at last to Buenos Ayres." Then he states how the mountains are crossed. "The mountains are crossed on mule's back, and all the rest of the road is done on horseback." Then he says: "I don't think that I shall remain long in either of those two towns, but go on straight to Rio de Janeiro and Bahia, where if you answer this letter you will have the kindness to direct yours, as I intend making some stay there before going to Mexico, as there is much shooting about the place, and I am in hopes of making a fine collection of birds about there. I am enjoying I am happy to say a very good health. I never have had a single moment of any kind of illness ever since I left England. I hope that you and my Cousin have enjoyed your tour on the continent, and that you have both derived what benefit you desired from it. Not knowing where you are, I have directed this letter to the care of Mr. Gosford, with message to forward it to you as soon as he receives it. I am perfectly at lost for news, not having received any letters from Europe since the beginning of last August. We are at present in this part of the world very nearly in the middle of summer. It is as you may fancy rather warm about here, but fortunatly I am used to it by this time. Pray give my to my Cousin and I remain, My Dear Aunt, Your very affectionate Nephew, R. C. TICHBORNE. P.S. The only news which I could pick up on my arrival here about J. Moore is that he is always at San Iago. Pray write to me and direct your letter at Bahia." You will observe that in every letter throughout this correspondence, he never fails to beg the correspondent, whoever it may be, to write in return, and he is careful to give directions where a letter shall be addressed, in order that it may be sure to find him.

There is a letter to his mother dated the 31st of December, from

Santiago, showing that at that date he had got from Valparaiso to Santiago. In it he gives a description of Lima, but having gone through that already in the last letter, it is not necessary to repeat it. He continues, "When I had seen everything"—that is in Lima—"I sailed on board a schooner for Guayaquil, we were about seven days to go. The scenery going up the river is certainly beautiful. I saw there for the first time tropical vegetation in all its beauty." I cannot help making the observation, that you have here a man who, whatever may have been his intellectual deficiencies, or the defects of his education, certainly was not without some sense of the beauties of nature in its grander forms, or without a certain power of describing what he observed and saw, and expressing the satisfaction which beautiful scenery produced on his mind. "I saw there for the first time tropical vegetation in all its beauty. There is not much to be seen in Guayaquil, so I started at the end of a few days to go up the river. I went about 300 miles in the interior of the country, and up as far as the line. After making several excursions up and down the river, making a very fine collection of tropical birds, which are beautiful, I embarked on board the Pacific steamer to come back to Lima on my way to Valparaiso. I remained a short time at Lima to imbark few things which I had there, I afterwards embarked again for Valparaiso on my way to Saniago"—Therefore you see from that statement that he did not come from Lima by land, in which case he might have got to Santiago and then have taken Melipilla in his way; he comes back from Lima by sea. Having gone from Valparaiso to Lima, and from Lima to Guayaquil, he comes back by steamer from Guayaquil to Lima, and from Lima to Valparaiso. He continues: "I am going in the course of a few days to Buenos Ayres and Monte Video across the Cordilleras of the Andes and the Pampas. It is easy for you to see the road which I shall follow on the map, I shall go from here to St. Philip"—anybody having this letter before him can easily trace the route he took on the map—"I shall go from here to St. Philip, from there over the Andes to Mandoza, and from there straight accross the Pampas to my destination"—he puts two "c's" in across—"I got a great many curiosities in Lima and elsewhere, among other a very fine collection of paintings which have been done by the monks in the convents when this country was under the Spanish Government, they are just the sort of picture to put in a church or chapel. I don't speak of many other curiosities which are made by the Indians, such as crosses and very small statues which are beautiful. The only letter which I have received from you is the one which is dated the 23rd of May. I hope to fine some"—he always writes the word "find" with an "e" instead of a "d"—"I hope to fine some on my arrival at Buenos Ayres and Monti Video. The best way you can

do not to have your letters lost is to write on the corner of the cover to the care of Messrs. Huth Grüning and Comp., Bahia. But as I am not sure if he has a house there, which will be the place where I expect to receive my letters you had better write him a line in London to enquire about it." He sends his affectionate love to his father, and so forth.

He goes on towards Buenos Ayres. He has crossed the Andes; he has crossed the Pampas; he arrives at Buenos Ayres, and he writes on the 20th of February to Mr. Gosford thus: "My Dear Sir, many thanks for the only letter which I have received from you since I left England, which came by the last mail, and which was delivered to me this morning."—Therefore until the morning of the 20th of February, though he had arrived at Valparaiso on the 19th of June of the preceding year, he had never got a letter from Gosford. I do not know whether Mr. Gosford had written to him.—"I am not, I must say, the least surprised at the news which you give me about Tichborne and my Mother. I have for many years foreseen what is taken place there at present. It was one of the reasons (though I did not tell you at the time) why I was so very anxious to get out of England before my poor Uncle's death, because if I had been there at the time, I should have been thrown in the middle of all the different parties which unfortunately divide the family. I should have been in consequence of it been obliged to take part for somebody, or to put myself against everybody, which would have been most likely the case on that occasion"—He means, I suppose, that all were equally in the wrong; or both, if he was referring to his father and mother; and that he could have taken part with neither; probably would have been against both, and so would have been drawn into the vortex of their painful squabbles. Next comes this remarkable passage: "I am really very sorry that my mother's character is so disagreeable, because it must make it a kind of hell for my father and everybody in or about the house." That is Roger's own description of his mother's temper and disposition and her habit of dealing with his father and with everybody else—"I was very sorry to learn at the same time, though I don't wonder at it, that my father felt so low in spirits, still I know but too well that I can do nothing for him, and I know, moreover, that if I was there it would be ten times worse than it is at present. There is unfortunately no remedy to it." Now, Gentlemen, it is clear from this and many other passages, that while Roger Tichborne felt there was fault on his father's side, whose hasty temper and whose after facility in yielding only made matters worse in the disputes that took place between him and his wife, he felt, and deeply felt, that it was his mother who was principally in fault, and his sympathy was with his father rather than his mother. And I do not know any instance—numerous as

the instances have been, in which it has struck me that the learned counsel for the defendant has gone counter to the facts, and in his observations has tended to damage his client's case—in which he has done so more strikingly than in holding up Roger's father to reprobation, in consequence of the unhappy relations which subsisted between him and his wife. The learned counsel extolled the mother as an example to all women, as super-excellent in all qualities, and sought to disparage the father, applying to him most offensive epithets, calling him a "cowardly, degraded contemptible slave." That was the language which he applied to the father, the alleged father of his own client, and the defendant sat by and listened with silent acquiescence. Would Roger have done so, think you? For, an incident of this kind occurring in a cause should not altogether be lost sight of. A son listening and hearing opprobrious terms and obloquy applied to his dead father, whom, though perhaps not with the warm ardent affection with which sons generally love fathers who love them, he still loved, with whom he sympathised, whom he pitied, whom he would gladly have assisted, if he could, in the domestic discord which marred the happiness of his life, is, indeed, a strange spectacle! When in the contest for the rights of maternity, the one woman was willing that the child she said was hers should be cut in twain rather than forego her pretended right, the wise man said she could not be the mother. When a son sits by and allows his father's grave to be spit upon—allows contumely and insult to be heaped upon his father's memory, what are we to say? Would not a son, indignant at hearing such opprobrious terms applied to his father, have sprung to his feet, and stifled the slanderous words in the utterance? One would have thought so; but this language was not in any way checked or reprehended by the defendant. Possibly, however, he may have been so astonished at hearing this torrent of abuse levelled against his father's memory, that he may not have had the presence of mind or self-possession to remonstrate against that which ought, if he was the son of that man, to have stirred up his inmost soul. It is quite plain, you see, that the son felt it was the mother's temper that made the paternal house a hell to his father and everybody else, and that it was the father who was the sufferer, the aggrieved sufferer, and not the aggressor, and not his the fault that domestic discord existed as it did in this unfortunate establishment. He goes on "I suppose that by this time you must have heard something about those Italian Princesses, who my Mother is so anxious that I should chose one to marry. I use to hear nothing spoken of when I was in Paris from morning to night but about them, though I always use to say that I would not give sixpence for a whole cargo of them; but all what I could say was to no purpose. I have seen and know too well what is married life, so as not to go

and do the—" then there is a word which it is impossible to decipher—"to go and marry myself. I have done certainly a great many foolish things in my life, but I hope to keep clear from that one at any rate, notwithstanding all what my parents and relatives may or may not say. The life which I am leading now suits me remarkably well. I am perfectly independent. I go and do what I like, and I have no body to act as a spy over me, which is a great blessing among several others. It is quite impossible for me to fix the time when I shall come back to England, where I have I can assure you but little wish to come back to witness senes"—spelt without a "c"—"like those which must daily occur at Tichborne. I have not received any letters from Lady Doughty since the one which I received shortly after my arrival in South America. I don't know what became of her different letters if she has written some since, which I am rather in doubt of, as I answered rather sharply to some remarks and allusions which she made in her letter. I was not in the least surprised to hear that she had taken a house in London for six months, knowing how fond she is of London life. I shall write to her by this post if I have time, because I have a great many letters to write by this post. But on all cases, don't forget the first time you write to her to tell her if she favours me with a letter to direct it to Kingston, Jamaica, West Indies, where I shall be in about 3 months on my way to Mexico. I shall call there to get any letters which may have been written to me from England. I shall write to you from there to let you know where you are to direct your letters afterwards. But don't fail yourself to write, that I may find a letter from you there. I don't know why I never received a letter from my father since I left Europe, though I have written him several times. The only letter which I received was from my Mother at the beginning of last August. I found to my great surprise J Moore selling pills at Santiago; he appeared to me to be at the tip top of happiness to be able to make as many pills a day as he liked, and to sell so many boxes to so many credulous persons who thought that those pills could cure from all kind of illnesses, from a"—then there is a word which I need not repeat if it is what it has been thought to be, but that is very doubtful; Mr. Davis makes a note that he does not think it is the word that it was read to be—"to all other sickness known and unknown. I was very sorry to hear of his father's death, I fancy that he must know it by this time. I arrived here on the 13th. I was very glad to find a letter from Mr. Slaughter waiting for me here, as I had not heard from England for so very long." Then, "still harping on the daughter," he comes back to Miss Doughty—"I don't fancy that the London season will pass over this year without Miss Doughty being engaged to marry. I expect to see first the news of her marriage when I shall be

travelling about in the British Colonies in some English newspapers: I mentioned to Lady Doughty that it was not my intention to come back to England before two or three years were over." In his letter to Lady Doughty he had said "some years"—he evidently had not the precise language which he had used in that letter in his memory, and he tells Mr. Gosford what he supposes he had told Lady Doughty. That appears to me to give an explanation of the language which he had used in his letter to Lady Doughty, and that his intention was not to come back to England before two or three years were over. It is an important passage, because you will have to consider, when we come to the intention in Roger's mind, when he went on board the "Bella," whether he intended to remain away from England a longer period, or merely to complete the course of travel which he had laid out for himself and then come back to this country? Now here he says: "I mentioned to Lady Doughty that it was not my intention to come back to England before two or three years were over"—his letter to Lady Doughty was written a year before the period at which we have now arrived:—"Perhaps you have heard of it already. But now I trouble myself little of what her Ladyship thinks about me or about what I intend to do." Gentlemen, I don't believe a word of it. There is not a letter in which he does not speak about Lady Doughty or Miss Doughty, and he has nothing more anxiously on his mind than the desire of hearing from Lady Doughty at one place or the other to which he was going. "You have forgotten to tell me"—now comes the man of business—"You have forgotten to tell me in your letter what my poor Uncle left in your charge for me and what had been sold at Tichborne at his death. I have not time to send you an account of my travels in this letter, but I shall send you a copy of my daily journal from Rio de Janeiro or Bahia. Don't forget to write to me, and direct the letter where I told you." Then comes a little bit of jollity: "P.S. I shall drink a good glass of Rum punch to your health, in Kingston, Jamaica. Do you want some, so as to be able to go to bed singing, 'Come with me to fairy land,' or 'We won't go home till morning, till daylight appears.' I am obliged to sing these songs all by myself in this part of the world. I am going to Montivideo, I hope, in a few days, on my way to Brazil. Be assured I would not live in a house like Tichborne is now, for anything in the world. There is a bust in the large box which you will receive which I bought for my Brother, so will you have the kindness to give it him" and so on. This is still from Buenos Ayres. He writes again, on the 28th of February, to Lady Doughty, whom in his letter to Mr. Gosford he said he no longer cared or thought about: "My Dear Aunt, Where are you? in what part of Europe have you fixed yourself? Not knowing where you are, I have directed this letter to the care of Mr. Gosford,

who will forward it to you wherever you are. When I was in Santiago last time I had two very fair likenesses taken of me"—those are the daguerreotypes which you have seen, and which have played so large a part in this inquiry—"I send one"—which is the present for the past tense as usual—"to my parents and one to you, though I doubt that you will know me again. My personal appearance, of which I always took so much care, has been so much improved by the tropical sun that I think I look much more like a red skin Indian than anything else. But however it is not worth thinking about. I arrived here on the 13th of this month, coming from Mendoza, where I remained a week. I left Santiago on the 11th of January to cross the Cordilleras of the Andes, which took me a week to do. If you favour me with a letter"—always looking to that—"If you favour me with a letter, will you have the kindness to direct it to Kingston, Jamaica, West Indies, where I shall be about three months to get my letters on my way to Mexico. I shall leave Buenos Ayres, I expect in a few days for Monti Video. Pray excuse this short letter; I have not time to write more by this post."

Now comes a letter of some importance—to Mrs. Seymour. He gives an account of going to Lima and what he saw at Lima. We had all that before, and I will not go over it again: then he tells her about his going to Guayaquil. "I did not make a long stay at Guayaquil but hired one of those long Indian canoes with two Indians, at the end of a few days to go up the river. After I had taken all the provisions I embarked with my servant on board my yacht."

The learned Counsel dwelt on the fact of his going up the river with two Indians without a servant as a proof that Roger Tichborne could speak Spanish, or a sort of patois Spanish; but that argument falls to the ground when you read this letter, which somehow or other must have escaped the learned Counsel's observation; for in it Roger distinctly states that he went on board the boat with his servant. "My excursion lasted about a fortnight. I went about 300 miles up the river. I was for several days under the line. The heat there was something quite fearful." Then he says: "I got when I was there a very fine collection of birds"—the same thing over again, and then—"after I had seen and explored all what I could in the interior I came back to Guayaquil where I remained about a fortnight longer, making excursions all about the town. At the end of that time I embarked on board the steamer for Callao and Lima, where I was obliged to make a much longer stay than I intended at first, as my servant was ill, and I was obliged to take care of him, but seeing at the end of three weeks that he was not getting any better I was obliged to leave him there and take another." That

is Baraut who was examined on the former trial, but, I know not why, has not been brought forward as a witness on this. "When all this was settled, I embarked again for Valparaiso"—showing he came to Valparaiso, as I said before, by steamer. "I arrived in that town after a passage of twelve days on board the steamer. I only remained few days in Valparaiso, as soon as I was able I left for Santiago." After that he proceeds to give an account of his journey across the Andes; but before we finally leave Santiago I turn back to the question of Melipilla. We now see quite plainly that Roger Tichborne could only have gone to Melipilla on his return journey from Santiago to Valparaiso. He could not have gone to Melipilla on his way from Valparaiso to Santiago the first time, because he only took sufficient time to go through from the one place to the other. He could not have gone to Melipilla on the second occasion of his going from Valparaiso to Santiago for the like reason—there was not sufficient time. For we know that on the second occasion of going from Valparaiso to Santiago, he performed the journey in a manner which really amounts to an actual feat; he rode a journey of between seventy and eighty miles on the horses of the country in a single night. Consequently there could not have been on that occasion a stopping at Melipilla; and, therefore, if ever he set his foot in the town or village of Melipilla at all, it must have been on the occasion of his return from Santiago to Valparaiso before he started for Arica and Lima at all. Now did he on that occasion go to Melipilla? I have before observed that there is not a trace of it in his correspondence; the name of Melipilla never occurs; nor is there any reference to his stay at any intermediate place, except on the occasion of his going from Valparaiso to Santiago the first time, when he says he stopped half-way to sleep. There is no reference, as I said before, to Melipilla at all. Did he, on the return journey from Santiago to Valparaiso, stop at Melipilla? He left on the morning, as his letter to his mother shows, of the 6th July. He sailed from Valparaiso on the 27th. Whether he stopped at Melipilla or did not, it would take him two days on the road, which reduces the nineteen days to seventeen. One of you made the observation that seventeen days would be a very short period for the accomplishment of all that the defendant, according to his own account, did when at Melipilla, in going about to different parts of the country, making acquaintance with so many persons, forming the intimacy which his letter to Castro so plainly indicates: it seems difficult to suppose that all that can have taken place in the short period of seventeen days. Suppose it possible—I pass that by—did he stop, on his way from Santiago to Valparaiso, at Melipilla? I must ask you to weigh every word in the only passage of the whole of this correspondence which has reference to his return journey from

Santiago to Valparaiso on that occasion. Let me put this question to you: Suppose you had a friend or an agent who was going from London to some foreign country by a ship from some other English port. I take the first name that occurs to me: suppose that the individual to whom I have referred, and in whom you were interested, was going to sail from Bristol to Jamaica by a given ship, say the "John Smith," and you were perfectly aware he was about to do so—just as here Roger's mother, to whom he was writing, knew by a previous letter to his father that he was about to sail from Valparaiso to Arica by the ship "La Pauline," the ship in which he had gone out—let me suppose that the imaginary individual to whom I have alluded sat down to write to you when he got to Jamaica to give you an account of the incidents of his voyage, and he wrote to you thus: "I left London on the 1st June to be in time for the 'John Smith,' which was to sail upon the 2nd"—you know that he is going from Bristol by the "John Smith," and going to Jamaica—"I left London on the 1st of June to be in time for the 'John Smith,' which was to sail on the 2nd. When I got there, I found that she would be delayed ten days." What should you understand him to mean by "when I got *there*"? Where? Should you understand him to mean the place where the ship was, or some intermediate place at which he had stopped and received the statement that the ship was to be delayed? The only place known to you in common with him being the place where the ship was—when he says to you, "I left London on the 1st June to be in time for the 'John Smith,' which was to sail on the 2nd, but when I got there I found that the ship would not sail for ten days," should you understand him, when he uses the word "*there*," to mean by it that he had stopped at an intermediate place, say Reading or Bath, which are on the road to Bristol, and there had received an intimation that the ship would not sail for ten days, in consequence of which he had remained for ten days at that place, or that he had stayed at the place from which the ship was to sail? It appears to me that this is deserving of very serious consideration. For that is the language of this letter. Does it imply that he received the information that the ship was not to sail at the place where the ship was, or that he received it at some intermediate place at which he had stayed, and where the period of unavoidable delay was passed by him in consequence of his learning there that the ship was not ready? "When I had settled all about with him"—that is with Moore—"I made my arrangements to start the next morning as I was anxious to be in time for 'La Pauline' which was to sail shortly for Arica." It is exactly the corresponding case to the hypothetical one which I was putting before you, and which I put because the places are nearer home, and it presents itself, therefore, more vividly

to the mind. "When I arrived there I found that she would not sail so soon as I had thought." Does that mean, "When I left Santiago I left in order to be in time for the sailing of the vessel 'La Pauline,' but at an intermediate place on my way from Santiago to Valparaiso I received intelligence that the vessel would not sail, and I stayed there in consequence?" If he had meant that, would he not have put all that in before he came to the word "there"? That is what I submit to your consideration. For it appears to me to be deserving of very serious consideration, especially as there is no trace in any of his letters of Roger having been to Melipilla. If there are difficulties independently of this, as has been suggested by one of you, when you look at this passage, and read it by the light of the surrounding circumstances, what is the conclusion to which it leads your minds? If you think that the construction which I suggest for your consideration is the right one, and your minds are led to the conclusion that what Roger meant by that passage is that he went straight to Valparaiso, and on arriving there found that the ship which was stationed there would not sail for a given time, it negatives the possibility of his having stopped at Melipilla on the way. In that case the logical conclusion which I before suggested necessarily presents itself:—if the defendant was at Melipilla, as we know he was, and Roger Tichborne never was there, the two men cannot be the same. If, on the other hand, you do not adopt that construction, the question whether Roger Tichborne went to Melipilla of course remains an open one.

We have next a letter giving an account of his crossing the Andes, and the letter is very remarkable in point of narration, in point of graphic power of description, and of language. It is, therefore, one to which your attention should be directed. It is a letter dated the 12th of March, addressed to Lady Doughty, from Monte Video:—"I was not able to write the details of my journey from Santiago to Buenos Ayres by the last mail for want of time. I shall, therefore, give you at once an extract from my daily journal, which may, I hope, be of some interest, as I don't suppose you have often met with a person who has performed the same journey as I have. I left Santiago on the 11th of January at 7½ A.M. with my valet, a guide, two horses and four mules. Nothing worth notice occurred during the two first days except that the scenery became wilder and wilder as we came nearer the chain of the Cordilleras of the Andes. We reached the foot of the Cordilleras on the morning of the third day, but before ascending the first chain of mountains we had to get over a hill which in this part of the world is not thought worth speaking of but in England would be considered very high. We were obliged to go up the hill one by one on a narrow footpath, when one of the mules which carried part of my luggage turned suddenly round

and began descending the hill leaving us on the footpath looking at her as it was impossible to go after, as it was much to steep—"too," written "to"—"She would stop at the end of a short time"—that is a French mode of saying that she wanted to stop, or wished to stop; he uses the past tense of the verb "will"—"She would stop at the end of a short time, but it was too late, so that being obliged to go on till at last the ground began to give way, then she fell rolling with the luggage which was tied on her back, for about 50 or 60 feet, when she fell from a perpendicular place at the height of more than 30 feet." Now comes a passage to which I must direct your attention. And my reason for saying so is this: the defendant in his cross-examination stated that his servant Barraut refused to go down with him, and that they had a quarrel in consequence, and that one of the muleteers and he went down and collected the luggage and things which had fallen with the mule; whereas, when we come to read Roger's account of it, it is distinctly stated that all three went down—we know who they were, because he said he started with his valet and a guide, which constituted the three persons—"We then all three went down and found that she had one of her legs broken. During that time a troop of Muleteers"—written without the "e" in the middle of the word—"came up to us and gave us the greatest help as they did all the time till we arrived at Mandoza. We all then set at work, unloaded the unfortunate mule, loaded the spare one, and left the one which had broken her leg there to die as best she could. My party was then increased of 7 men and twenty mules all following the same road. We began to ascend the first chain of the Cordilleras at about 12 o'clock, we were about 3 hours to get to the top. The mules were as a matter of course just as unwilling to go on as usual. Some of the men were obliged to throw a lasso on the neck of each loaded mule, when two others had to follow behind beating them to make them go on. The view from the top of this first chain of mountains was certainly magnificent"—he writes it with an "i" between the "c" and the "e." "The immense extend of country which I saw from the high point where I was, with the number of very high hills all round, is a sight which I believe cannot be met with anywhere in Europe. When I had admired this beautiful scenery for some time I was obliged to follow the others who were descending the hill one by one. As soon as we had reached the foot of the hill we followed the valley till dusk when we chose a place where we could build up our camp for the night. When the place was found we unsaddled our horses, unloaded our mules, and set them loose to go where they liked for the night. When the animals had been cared for we began thinking of ourselves. A large fire had been lighted on which I and my servant began to boil some water to make up some soup for all of us. As I had led

that kind of life several times in other parts of South America, and as my valet understood cooking, we made up a very fair soup with the remains of a ham, bacon, broken biscuits, and so on; But when the soup was ready I found out that I had forgotten to buy some spoons in Santiago, at last, after looking about, one of the Multeers found one single fork in his pocket. It was not much for ten persons. Not being able to do otherwise we were obliged to put the soup tureen in the middle of all of us and fish out with our fingers the pieces which we liked best. Shortly after dinner we all rolled ourselves in cloaks, each one took his saddle for a pillow, and we were not long to go to sleep. The next morning we got up before daylight to get the horses and mules ready as soon as possible, as we were anxious to get on with our journey as much as possible. Nothing very remarkable occurred to us to-day, only the scenery changed as we were following up the river. The views were certainly magnificent, but of a different character from what I had seen on the previous day. We were greatly in hopes of being able to reach the foot of the second chain of mountains, but as we came near a very rapid river, which we were obliged to cross, a man came up and said that much snow had melted of late in the mountains, and that the river was too high for us to cross it that evening. When we heard that we made up our camp in the same way as on the previous night on the bank of the river. We were all up before daylight to wait for the man who was to come and show us the place where we could cross the river. When the place was found we began crossing the river having water halfway up our saddles. As this river is extremely rapid and in some places deep, the current is so strong that it rolls large round stones which weigh as much as 40, 50, and 60 pounds. When persons begin to cross this river, two or three persons go on each side of the river whirling their lassos round their heads so as to catch with it any body or animal which might have been knocked down by one of those large rolling stones, and be floating down the stream. We were fortunate enough to cross without any kind of accident. It was not till about 12 or 1 o'clock that we reached the foot of the second chain of mountains which is called the Portillo"—that is Spanish for gap—"I had found the first chain of mountains very high but it was all child's play to what was this one. We ascended about four hours, passing in some places over large pieces of rock and large rolling stones on which our animals had to jump in the most wonderful manner to cross, also several large fields of snow, which in some places were very deep. We reached the foot of the high hill over which we had to get. This place is what is properly called Portillo. We began ascending this high hill by a very narrow footpath, which rose above our heads almost in a perpendicular line. After about 2 or 3 hours we reached the top. I remained

there as long as I could, admiring the immense extent of view which I had before and behind me and which was certainly the finest I had yet seen anywhere. I saw before me for the first time the Pampas, which extended before me as an immense sea, and behind me the immense chain of the Cordilleras of the Andes which are always covered with snow." There is considerable graphic power in that description. It would seem as if the magnificence and glory of the surrounding scenery had stirred his spirit to its very depths, and had inspired him in giving this description of one of the finest pieces of scenery in the whole world—in the spirited language of Campbell:—

"Where Andes, giant of the Western star,
With meteor standard to the winds unfurled,
Looks from his throne of clouds o'er half the world."

Crossing this great mountain range, Roger seems to have had quite mind enough to appreciate the beauty and grandeur of the scenery by which he was surrounded. He goes on: "We were about as long to get down this very high hill as we had been to get to the top. As soon as we had reached the valley we followed it till dusk, working our way towards the Pampas. As night came on we were obliged to camp that night for the last time in the Cordilleras. The next morning early we got under way, and passed early the custom house of the Argentine Republic. We all got into the Pampas about midday. I took leave of the troop of Multeers in the afternoon thanking them for the help which they had given us in our passage across the Cordilleras. I then followed the road which is traced in the grass till I reached Mendoza two days afterwards. It is certainly wonderful how mules and horses, which are generally very heavily loaded, can get over some of the passes, which are in many places but pieces of rocks, on which they are obliged to jump from one to another at the height of many thousands of feet—that if they were to miss their footing it would be impossible for any human eye to follow them in the falls till they reached the bottom of the hill, and when once they would have reached that point roll again into a deep precipice, where you can see nothing, but hear a torrent roaring at the bottom." Then he says, "I remained eight days at Mendoza waiting till the mail left, as it was my intention to go to Buenos Ayres with it. At last the day for leaving Mendoza came, at which I was very glad, as I found the place one of the dullest towns I had ever seen. When the day came to leave I left alone with him on horseback. I started from Mendoza on the 27th of January, and arrived at Buenos Ayres in the morning of the 13th of February. We galloped over the 400 leagues or 1,200 miles in a shorter time than it had been done for a long time, considering that we had been obliged to remain in different little towns which are to be met in different parts of the Pampas 10 days to get and receive

dispatches. I shall say nothing of the journey across these immense plains, as the Pampas are nothing but immense grass lands, where large troops of 500 or 600 half wild horses are to be met with from time to time. I had left my valet to follow me with the luggage; he arrived about ten days after me at Buenos Ayres. Buenos Ayres is a large town; it counts about 100,000 inhabitants, but there is little or nothing to be seen in the town. I embarked on board an English steamer on the 4th of March for Monte Video, where I arrived the next morning. It being Sunday the town was dull. I employed most of my time in exploring the town, which is far better situated and built than Buenos Ayres." Then he states what he is going to do: "I am going back to Buenos Ayres tomorrow to embark shortly for Rio de Janeiro and Bahia on my way to Para where I shall remain sometime exploring the Amazon, which is the most interesting point to visit on this side of South America. I shall go from there to Kingston, Jamaica, West Indies, to get any letters which may have been written to me from England. I shall go from there to Mexico to explore that part of the world. As to my future plans it is quite impossible for me to let you know at present. I shall write to you if I have time from Rio de Janeiro, or Bahia, but I may perhaps wait till I find a letter from you at Kingston. I am very fond of the kind of life which I am leading, and as my health has always been very good it is not likely that I shall give it up in a hurry. You have I fancy received my picture which I sent to you from Santiago. I do not know if you would care about it but if you don't you only want to throw it in the fire and it will be an end of it that's all"—that is, you need only throw it into the fire and there will be an end of it—"I only thought at the time that it might be, if we are not to meet again, a kind of souvenir, that is what was my idea, but still at the same time you might not care about it, there is no harm in it. I found some letters for me here and at Buenos Ayres. It gave me much pleasure to receive some news of England as it was some time since I had received any." Observe the unceasing desire he has to receive news of England, and that the correspondence with him may be kept up—"I have been in consequence of it very busy lately in writing letters which I had not done for some time as I had always been going about. I have almost finished my long gossiping letter which I hope has interested you more or less. I expect to find a letter at Kingston in answer to it which will be at least of 16 pages, which will give me no end of details about England and of your tour in France, and how you liked Paris. I suppose that you are by this time fixed in London. In what part of the town do you live? Is the season very gay this year? I found a letter from my father waiting for me at Monte Video, he appears to me by it to be very well and in good spirits"—

I cannot suppose that this was the "cross letter" which the defendant refers to, because a man does not speak of a letter in which his father appears "very well and in good spirits" as a cross letter. "I was very sorry to hear a short time after my arrival in this part of the world of Lady Tichborne's death. It must have been, I have no doubt, a sad blow to all the family, especially as her death was so sudden. I must at last conclude this letter which has been perhaps already too long by praying you to give my love to my cousin, and believe me, my Dear Aunt, your affectionate Nephew, R. C. TICHBORNE. P.S. *Pray, don't forget the letter which I expect to receive from you in the West Indies, of at least sixteen pages.*" The whole of that is underscored. Then he notes, "Distance performed by me on horseback from one town to another"—it is not necessary to go through the details—he makes the "Distance between Valparaiso and Buenos Ayres 513 leagues or 1,539 English miles"—a very long journey for a man to have performed on horseback, and which would appear to afford a sufficient answer to the supposition that he was the diseased, debilitated, worn-out individual the counsel for the defendant sought to represent Roger Tichborne.

Now, we have not before us any corresponding letter written to his mother; but in the last letter written to her prior to that date, a letter of the 1st of March, he promises that he will send her an extract from his journal. In that letter he says, "I have not time now to send to you an extract of my daily journal to-day, but I shall write it out for you." Therefore I cannot help supposing that as he found time to write this extract from his journal to Lady Doughty, having promised to send the same to his mother, he must have written to her in the same terms. Indeed, the defendant, who has had possession of all Lady Tichborne's letters, admitted that there had been a copy of the journal sent to the mother. If that be so, the argument which was strongly pressed by the learned counsel for the defendant founded on his knowledge of the accident to the mule, and on this accident not being mentioned in Roger's letters to his mother, of course falls to the ground. If Roger Tichborne sent the same extract from his journal to his mother that he sent to Lady Doughty, the accident to the mule would be fully described. That letter, however, we have not seen. What has become of it we do not know. If there was such a letter to the mother with this corresponding extract from the journal—of course it would be in the same words if taken from the journal—that letter has been withheld. If the letter ever reached Lady Tichborne, it must have contained an account of this accident as well as the other incidents of the journey.

I ought not to pass over that letter of March the 1st to the mother, to which I have just been referring: "Buenos Ayres, March 1st. My

Dear Mother, It is certainly strange that every one of your letters as far back as I can remember have always been and are still now always on the same subject, without the least variation. Those subjects are invariably the duties of a Son towards his Mother which fills up as a matter of course at least the two first pages. The two other pages are generally filled up with all kind of imaginary fears, and a list of accidents, the illness and sickness of every description which are quite unknown to any body else but yourself. It must be certainly the work of your imagination which makes you think of so many things. Another thing also, where I don't think you don't at all treat me fairly; you treat me in your letters exactly like if I was twelve or thirteen years of age, and moreover as if I was quite incapable of taking the least care of myself. I beg to say that I am quite old enough to take care of myself, and that I act as circumstances require it. Afterwards if you are always determined to think that I am ill or sick or anything else, when I tell you in my letters that I am very well, it is perfectly useless for me to write to you to let you know how I am, as you don't appear to believe what I say in my letters. I shall not in future wait for your letters to write as they don't contain any news from you or my Father, or any kind of news which require an answer. I shall therefore write to you"—this is an important passage as indicative of his future intentions—"I shall therefore write to you from the principal towns at which I shall stop, without waiting any more for your letters. The servant who I took at Lima suits me very well. I have had him to my service now for some time, and I have no doubt that he will go on as he has begun and follow me in all my travels, and come back with me to England. It is quite impossible for me to fix in any kind of way the time of my return to England. The life which I am following suits my taste too well for me to leave it in a hurry, especially as my health is remarkably good and promising to keep so for a long time to come. I left Santiago in the middle of summer which is the month of January, that is to say on the 11th of January, to cross the Cordilleras of the Andes." Then he describes the scenery in very much the same language as before, only more briefly, but still sufficiently to indicate the strong feeling of admiration excited by what he had seen. "I have seen certainly a great many countries in my life but I never saw one where the sceneries which a person sees from the top of the Cordilleras of the Andes, for the wildness and magnificent scenery which he sees before him I don't think that there is anything to be compared to it in the world." It is in this letter that he promises to send the extract from his journal—"When you answer this letter direct yours Post Office, Kingston, Jamaica, West Indies, where I shall only call to get my letters on my way to Mexico, where I expect to be in about 3 month and a half. I have not time now to send you an extract of my daily journal to-day

but I shall write it out for you as soon as I shall have time. I suppose that you must be by this accustomed to the English country life which is by far the best life to lead. Tichborne is a very nice place in all seasons in the year," and so on. Now it was on the 12th of March, twelve days later, when he had got to Monte Video, that he sent to Lady Doughty the long extract I have read to you; and it may be presumed that on the same occasion (he says his whole time is taken up in writing letters) he would send to his mother the promised extract from his journal, just as he sent it to Lady Doughty.

From Buenos Ayres he writes to Mr. Gosford a letter, which is not unimportant, of the 17th of March. "My Dear Sir, In reply to your letter which I found waiting for me at Monte Video, I think it quite necessary to alter the will which I had written by Mr. Slaughter in London, in June, 1852—so far, at least, as Everard Arundell is concerned." This shows that he had perfectly present to his mind that he had left the ultimate remainder, in default of issue of his brother and of his cousin Miss Doughty, to Everard Arundell; but although I have no doubt you are satisfied he fully understood what he had done by the different provisions of his will, Roger Tichborne was no lawyer. I don't suppose he had ever read the most elementary law book, or received instruction of any sort or kind on the subject of law, and he imagines, in the simplicity of his mind, that a man can alter his will by writing to his agent either to insert something in it or to strike something out of it. This is the notion he had got into his head—a very foolish one, no doubt, and which shows a prodigious ignorance of law; but his proposal shows perfectly well that he was quite aware that by his will he had left the whole of the Doughty property, in the event of failure of issue of those to whom he had first left it, to this Everard Arundell. Now Everard Arundell, as Roger had probably learned from one of the letters he had received from England, instead of devoting himself to some lay profession, was about to become a priest, and it occurred to Roger that it would never do to leave it to him, because in case the issue of the other branches should fail, he might bestow it on the church, which was by no means what Roger desired; so he says: "I think it quite necessary to alter the will which I had written by Mr. Slaughter in London, in June, 1852—so far, at least, as Everard Arundell is concerned. As he is going into the noviciate at Stonyhurst to become a Jesuit, I don't think that in case there should be no male issue from either me or my Brother, it would be desirable to leave him such power as named in my will in the property. I therefore wish that on the receipt of this letter you will write at once to Mr. Slaughter to have E. Arundell's name scratched out of my will"—he thought that could be done. Then follows a very remarkable passage—"There is another thing on which I have thought for a long time: I and my

Mother never could agree together. It would therefore be desirable, in case my Father should die during the time I am travelling, to insure her (if it has not been done already)"—It had, in fact, been done by virtue of the power which Mr. Tichborne had of charging the estate, in his wife's favour; but of this Roger was not aware, so he says—"to insure her (if it has not been done already) so much a year to live where she liked except at Tichborne, as it would be quite impossible for me to put up with her character."—This is the mother to whom he has been supposed to have been so much attached, and at whose slightest bidding he was prepared to act entirely according to her will—"I wish you to speak on the subject with Mr. Slaughter, and write to me what you thought upon it, and direct your letter where I told you in my last letter."

He writes to Mr. Vincent Gosford on the 20th of March from Buenos Ayres on the subject of Moore, and though what he says about Moore matters little to us, it is not immaterial as throwing light on his intention with regard to his coming back to England. For we shall have presently to consider whether the course of conduct said to have been adopted by the defendant in Australia, the living so many years in exile, obscurity and silence—was at all in accordance with what might have been expected *à priori* of Roger Tichborne, from our knowledge of his character and antecedents? In this letter he says: "I have not alluded to a subject concerning J. Moore, which must be I fancy of some interest to you as it was in great measure to your recommendation I took him to follow me in my travels. When he was so very ill at Santiago last July I was foolish enough to tell him that if on my return to England a change took place and I was obliged to get up a house I would take him as butler if he liked it. I certainly"—the word "had" is omitted—"forgotten to tell him when I was last in Santiago that it is now a thing quite impossible, for several reasons which are these: First of all when I came back to Valparaiso and had taken my passage on board La Pauline to go as far on board her as Arica (cost of Peru) I was quite surprised to hear from almost everybody on board what extraordinary rumours he had been spreading upon me. He had been it appears pestering everybody on board in the passage from Hâvre to Valparaiso, beginning by the cook including almost all the sailors, and going to the mate, and the Captain, telling them all till they got so tired of him that they use to send him about his business, that I had an Uncle who gave me plenty of money, that I was moreover what is called a hare-headed kind of chap, that I had undertaken that long travel God knows for what purpose, but that at any rate there was not the least doubt that no sooner I would see Valparaiso I would get so tired of the place I would go back to Europe directly, and that it was very likely that I would go back

on board *La Pauline*, and many other thing similar. I have done certainly many foolish things in my life, but I have not yet been nearly 5,000 leagues out of my country only for the pleasure of taking a sail. Secondly it is not in the least my intention to set up a house as it is not my intention to marry. So that remaining single I won't require a butler nor many other servants, who are necessary in a regular establishment. I don't think it even so likely that I shall ever make any long stay in England during my Parents' lifetime." That is an important passage. It shows on the one hand that he did not mean to make any long stay in England during his parents' lifetime, because in that case he could not have avoided going to his paternal home, and might there have been involved in the annoyances to which he has so many times referred. But it by no means shows that he was intending to stay away from England altogether. "I don't think it, even so, likely that I shall ever make any long stay in England during my Parents' lifetime. You had better mention this second point in the first letter which you write to I. Moore to explain to him that it not being my intention to have any kind of establishment it is quite useless for him to think of coming back in my service as Butler, as I shall have no employment for him, as in the small kind of house I shall have, my present valet will be able to do both employments of butler and valet de chambre. If I had known before what he had said about me I never would have kept him. I intend writing to him to-morrow to explain this second point to him myself, and tell him besides that if I can be of any use to him I shall do it with pleasure, but that it is useless to think of coming back into my service for the reasons which I have explained in my letter; I should feel obliged if you had the kindness to allude to the subject in your first letter to him." Lady Doughty again comes up: "I fancy that Lady Doughty enquires sometimes or other if you had heard from me and what may be my intention about coming back to England, or other things I don't know. I suppose that the old subject of myself and my cousin has never been alluded to by her to you, either by word of mouth or writing."—What is implied here but is left out is, "I hope it has."—"I never for my part mention any thing to her about it in any of my letters, and moreover I never write any of those private letters which she use to like so much formerly. Letters which she receives from me are very civil but there is nothing in them which cannot be shown to anybody. I am very sorry that you never told me in any of your letters what my Poor Uncle Doughty left me by his private will. I hope I shall learn it in the letter which I expect to find at the post office at Kingston." There we have sentiment and interest side by side—still the old feeling about his cousin, of whom he said, and I believe said truly, in one of his letters which I read to you this

morning, that he remained as much attached to her as ever. He had gone abroad partly from the love of travel, natural to a young man, and I think honourably natural to a young man, desiring to see foreign countries, and other modes of life and customs and habits than those which he had the opportunity of seeing in his own country; but he had gone, I believe, quite as much to drown, if he could, the painful recollection of his love, and his disappointment; and from this eternal reference to Lady Doughty and his cousin, while, at the same time, he expresses indifference as to whether Lady Doughty inquires about him or not, I cannot help thinking that the wound had never healed; and that, in the midst of all the excitement of travel, and the enjoyment of the wild scenery through which he was passing, many a time the thought of Kate Doughty came back upon him. Like the stricken deer of the Roman poet, the arrow still remained fixed in his side, and flight could not shake it off, or, as Dryden finely renders it:

“The fatal dart
Stuck in his side, and rankled in his heart.”

I see very plainly, from all this correspondence, that he could not shake off the feeling which had been so strong on him, and it remained just the same. A man may fly his country, but as Horace tells us, he cannot fly from himself; and Roger never could shake off, and never could have shaken off, though years might have intervened, the recollection of his first fond affection, which I cannot, reading those papers, and watching the whole course of Roger's life, fail to believe was deeply rooted in his heart—a feeling, not of low passion, such as the learned counsel for the defendant has described it, but of real, truthful, honourable love. It may have but little to do with the issue which we are trying, but I think it is but just to Roger Tichborne's memory, if he be dead, or to his character, if he be living, that that part of his history should not be misrepresented in the manner in which it appears to me the learned counsel for the defendant has misrepresented it.

Gentlemen, there is another passage as connected with the question of Roger's return to England to which I must call your attention. I did not read the long letter to Mrs. Seymour throughout, because it contains only an account of the passage across the Andes and the Pampas, and we have that in the letter to Lady Doughty which I have read, and there is no occasion to repeat the same thing to you a second time; but there is one passage in it which I think very worthy of remark, as bearing on the issue whether Roger did or did not intend to return to England. It is the last passage in the letter. As usual, he begs Mrs. Seymour, as he begs everybody else to whom he writes, to write to him in answer, and points out how she shall address her letters in order to prevent their missing him. Then comes this last passage:—“I shall feel much

obliged if Henry had, if he has not done it already, my name put up at the Traveller's Club, as I should like very" ("much" omitted) "to be a member when I come back." I do not think you could have better proof that he did intend to come back to England, and that it was not an expatriation for an indefinite period that was at that time contemplated by him, or indeed that seclusion from the world, in the spirit of a hermit, which the learned counsel for the defendant in such glowing terms described as animating the breast of Roger Tichborne. We were told that, sick and weary of the world and its wickedness, he was about to retreat into solitude, in which he might devote himself to contemplation or to the restoration of his health, physical and moral, which, unfortunately, dissipation and debauchery had destroyed. The last place I should think a hermit would have thought of going to would be the Traveller's Club in Pall Mall, unless the most *recherché* cookery, and the most exquisite wines, and the most pleasant society should be that which is characteristic of the anchorite and hermit. That is a passage we therefore ought not, when we come to deal with these glowing theories, altogether to lose sight of. What it means is this:—"Have my name put up at the Traveller's Club. I am going to travel another year or two. When I have done with South America, I am going to Mexico, and when I have done with Mexico I may go to India. It takes some time, when a man's name has been put up at the Traveller's Club, before he is elected, and that may about cover the period for which I intend to be away, and when I get back, I should like to be a member of that club as a place of refreshment and social enjoyment." That shows that he did not contemplate a final expatriation, but only a temporary sojourn abroad, at the end of which he would return to England; his father and mother being alive, he possibly would not make any lengthened stay in this country, but only visit it occasionally; but it shows quite the contrary to his having contemplated going and burying himself in the forests of Australia for some twelve years.

We now have brought Roger to the close of his career in South America. We know he took his passage on board the ill-fated ship the "Bella," and the account we have had from Captain Oates is this: He had got to Rio Janeiro, the place at which he intended to embark to go northwards on the way to Mexico. He seems to have got into pecuniary difficulties. It is said he got into those pecuniary difficulties by having been tempted to play at billiards, or whatever else it may have been, and having led a riotous life there, so that his funds became exhausted, and he had not the means of going on. Now that his funds became exhausted is clear. Whether this long sojourn in South America had brought him to the end of

his resources or not I do not know, or whether it was that he did get into some bad practices, and there spend his money or lose it. I see in one of his letters he begs that Messrs. Glyn & Company will forthwith send him an order for 200*l.* to Rio. It may be that he was disappointed in the receipt of that when he expected it, and it may be that he was in consequence detained at Rio. We have none of the correspondence later than Buenos Ayres, and we have no means, therefore, of judging of the actual state of things, but according to Captain Oates, Roger was in some difficulty; very likely he could not pay his hotel bill or something of the kind, and was impatient of remaining any longer until funds could be obtained from England, and he proposed to Captain Birkett, the commander of the "*Bella*," the vessel being about to sail at that time first to Kingston, and then to New York, to take him, intimating at the same time that he had not the means to pay the passage. Captain Birkett was pleased with the young man, and was half disposed to do what he asked. At the same time, he knew very well that he should make himself responsible to his owners if, on arriving at New York, Roger Tichborne had not the means of paying for his passage. He thereupon consulted Captain Oates, a brother captain in the same service, as to what he should do; and Captain Oates, who has all the appearance of being a good-natured man, saw this young fellow, took a liking to him, as everybody else who came into contact with Roger seems to have done, and said to his friend, "It will be all right:—he'll pay you when he gets to New York, and if he should not, I will bear you out in explaining to the owners how you came to take him on board." Accordingly, says Captain Oates, it was arranged that he should be taken on board. Now, being a foreigner, he had to give notice of his intention to leave, and it was necessary that he should have a passport. There was a difficulty in getting him a passport, and so, says Captain Oates, we agreed to smuggle him on board. Then, according to Captain Oates, Roger went on board the evening before the ship was to start. She was to leave on the 20th, and he went on board the night before, and it being necessary that his presence on board should be concealed from the local officers when they came on board, it was arranged he should be hidden and put out of sight when they arrived. According to Captain Oates, Roger remained on board on the night of the 19th, while he (Oates) returned to sleep on board of his own ship, but in the morning, the first thing, he came to say good-bye, and shake hands with his brother Captain, with whom it appears he was on very intimate terms, before the "*Bella*" sailed, and when he came on board at daybreak, every one was up, and there was Roger. Then he says, when the local officers were coming on board, Roger was put down into the place called the lazarette or store-room of the ship, which is below the captain's

cabin, and which was got at through a trap-door ; and having, when the officers were coming on board, put him into the lazarette, they shut up the hatchway over it, put the grating over that, and a table upon it with some coffee for the officers, so that when the latter came on board they had their coffee at this table, Roger Tichborne being down below, and the whole thing passed off without suspicion on the part of the officers of the trick that was being practised upon them. The officers left the ship, Captain Oates returned to his, and the “ Bella ” sailed.

Now, upon this part of the story there was a great conflict of evidence, which I do not propose at the present moment to detain you with ; though at a later stage of the case it will be necessary to advert to what has been sworn on this subject. The evidence is altogether conflicting, and it is impossible to reconcile the two statements : you must form your judgment between the two. The defendant’s case is that he went on board drunk ; that instead of being put into the lazarette, he was put into one of the after-cabins, which had been up to that time used as a store-room ; and that he never left it until the morning when the “ Bella ” went down, but remained in a state of intoxication, on and off, as he calls it, the whole time, having been in such a state of thorough debauch and drunkenness at Rio, that he was incapable of finding his way to the ship, and they were obliged to hunt for him for two days before they could find him to bring him off. All this is positively denied by Captain Oates, who says that Roger Tichborne was not drunk, and that this statement is an invention, and that Roger Tichborne was never put into the side cabin but into the lazarette, as he described. That I will not dwell upon now. I am hastening on to the departure of Roger, and to the sinking of the “ Bella.” On the morning of the 20th the “ Bella ” sailed. Four days after that, facts came to light which could leave no doubt that the “ Bella ” had foundered and gone down in the deep sea. The long boat was found bottom upwards, and in the immediate vicinity of it, articles of wreck which had most undoubtedly belonged to the ship. No doubt, therefore, could remain that the “ Bella ” had perished ; but the question still remained, whether those on board had perished with her. Well, when a ship goes down, nobody knows how, far out at sea, in the great deep, you naturally fear, and the presumption is, that those on board went down with her ; but there is always a hope, so long as hope can be reasonably entertained, that, although the ship has gone down, those on board may have escaped ; and accordingly for a time that hope would be entertained, and doubtless was entertained. Yet, reasonably speaking, the presumption would be the other way. When a vessel has gone down far out at sea, it is unlikely that those on board her would reach the shore ; and here was the additional circumstance

that the long-boat had been found bottom upwards, and so no one could have been saved in her. But then there were other boats on board the ship, and some of the persons on board might have got into one or other of the other boats, and though those who got into the long-boat, or larger boat, must of course have perished, as she was turned bottom upwards, that may have been from their having met with some subsequent disaster, after getting on board the boat. That might be a fair argument, and give some ground for hope that those who had gone in the other boat might be saved. But then there was the very awkward circumstance that the long-boat was found in the immediate neighbourhood of the articles of floating wreck which undoubtedly belonged to the "Bella." If persons had got into the long-boat, in the hopes of escaping in her, they would not have remained exactly on the same spot where the articles of wreck were floating. Of course, these articles, having no power to move themselves, would remain more or less stationary, while the long-boat, if persons had got into it, would by the power of sail or oars, which they could avail themselves of, soon have been removed to a distance. Therefore its presence there in the immediate vicinity of the articles of wreck would serve to lead very strongly to the inference that the long-boat had never been taken to by persons endeavouring to make their escape, but, in the course of the ship going down, had been turned bottom upwards and had remained floating on the surface of the water just like the other articles, and had never been used for the purpose of escaping from the wreck. If that was so, if the larger boat had not been resorted to for the purpose of escape, it was hardly likely that the smaller one should have been, and that those in her should have succeeded in making their escape. Still the thing was possible. Therefore, of course, as long as hope could be kept alive hope was kept alive; but there is an end to everything in time, and after a time Roger, by everybody except his mother, was believed to be drowned. Everything had been done that could be done. A vessel was sent out by the admiral on that station for the purpose of scouring the surrounding seas, to see if a boat or any remains could be found, but nothing except the long-boat and the articles of wreck was ever seen or heard of.

And now, Gentlemen, Roger having been supposed to have gone down at sea, and as we are about to lose sight of him, at all events for a time, let us see whether upon the whole purview of Roger's life, with all we have heard about him, and all we have read about him, and above all from the materials he has himself furnished, we can form any satisfactory estimate of his character, so as to apply it by-and-by as a test of the conduct of the defendant, with the view of judging whether in the defendant we recognize the man whom we are thus enabled to portray to ourselves, and have present physically, intel-

lectually, and morally to our mind's eye. In making a comparison between them as a test of identity, it is of course very essential that we should have a very clear and definite view as to who and what Roger was. Next let us endeavour to form an accurate judgment as to what were, when he went on board the "Bella," his intentions and resolutions as to the future; because here again a fair and proper subject of comparison presents itself. If Roger Tichborne had certain definite and fixed intentions as to his future career, does the conduct of the defendant square with those intentions? It being admitted that the conduct of the defendant, if he be Roger, is open to the imputation of the most extraordinary singularity, can we find in the character which we have formed to ourselves of Roger and in the intentions and resolutions which we shall find to have animated him, and which would have been likely to influence his conduct, anything to account for the conduct of the defendant? Has it been what we should have expected from the undoubted Roger Tichborne?

Now, with regard to the person of Roger, although that is a very important element in the inquiry, I do not propose at this moment to go into it, because there is about it a fearful amount of conflicting evidence which will have to be carefully compared. I therefore put it on one side, except so far as there can be no question about it. There are certain facts connected with Roger's personal appearance which are common to both sides, and which I may therefore mention to you now. He was a man of 5 feet $8\frac{1}{2}$ inches, as we know, at the time of his entering the army, and I do not think there is any reason to suppose that he ever grew after that. He was then twenty-and-a-half years old. The military tailor who has been called before you does not say he had occasion to take his measure a second time, and therefore I presume he did not grow after that period; and I think therefore we may safely take it that his height, as ascertained by the military tailor in the month of July, 1849, remained his height throughout—5 feet $8\frac{1}{2}$ inches by the military standard. Then we know that he was a very slim spare man, so small about the hips that they were obliged to have recourse to artificial means to enable him to keep his sword on, as the belt would otherwise have fallen down. We know he had dark brown hair. The precise shade has been differently stated, but we have some of the hair cut off in 1852 by his mother, and can therefore by our own ocular inspection satisfy ourselves on that. I do not propose to go into other details at present; but certainly, unless, according to the theory of the learned counsel for the defendant, a lean man can grow into a stout man and vice versâ (and I do not know that that is a physical impossibility), he was certainly not a man, whom you would expect to become a remarkably stout man, and a man of great bulk. Before

I quit that subject I have one other remark to make, and it is this: Whatever may have been the physique of Roger, it is clear that he must have been a man of very considerable nervous and bodily energy, certainly not the dilapidated, worn-out creature the learned counsel has represented. He may have had bad habits which impaired his health and constitution, but that he had a great amount of animal vigour from the beginning I should think there cannot be the slightest doubt. What were his favourite pursuits?—active ones. He was fond of hunting, shooting, and fishing. And what the amount of his physical energy must have been is manifest from this, that we do not find him giving himself up to the pleasures of bed, or table, or idleness, but always anxious for active service. He wants to go to India, and is only dissatisfied with the army because he has nothing to do; and when he finds that he cannot get active service, he makes up his mind, to do what?—to travel thousands of miles. He takes his passage on board a French ship; goes to Valparaiso, with the intention of exploring South America; proposing, when he has done that, to go to Mexico. When in South America, we find him riding from seventy to eighty miles in one night; he goes a journey across the Andes, which is a great deal more than everybody would undertake; he rides across the Pampas in an incredibly short space of time. Is this a man diseased in body and mind, debilitated and worn out from misuse of his powers, such as Roger Tichborne has been described to us? On the contrary, this is a man of great physical energy; probably, the sea air and the change of life may have had a beneficial effect upon him; because, to ride eighty miles in a night, and cross the Pampas on the horses of the country, a man must have been in very high training. He may afterwards, for aught I know, have given way to excess and debauchery at Rio and brought himself to the state the defendant describes himself to have been in when he was picked up by the saving ship; but when he was in South America he must have been in a very high state—I will not say of strength, because his bodily frame may not have been a strong one—but of physical energy and vigour, or he could not have done the things which he undoubtedly did.

Passing from this, let us see whether we can form an accurate estimate of his character. As to his intelligence, he was a man who had been most cruelly and shamefully, and so far as his parents were concerned, sinfully neglected. Châtillon had done something for him so far as he went, but after that he fell into the hands of as bad a preceptor as possibly could have been found: he learned nothing, and forgot what he had learnt. But before it was altogether too late he is brought to England, and is placed where, perhaps, education was not carried on on the highest possible principles, or in a manner

to attain the highest degree of proficiency in the various departments of study, but where, nevertheless, he undoubtedly did learn something. Though he seems to have been too much addicted to the pleasures of the field, and perhaps had bad propensities with regard to drinking, smoking and the like, he seems to have found time for reading, and he had some taste for books and literature. We have not his books before us. They were sold at one of the forced sales which took place when the sheriff's officers took possession of his brother's effects, and became scattered about, and only a few have been recovered; but we have a list of the books which he was prepared to purchase. I do not know whether he did purchase them. There is a series of books entered in that small memorandum book of his—a series of books which would have done no discredit to any one. Some of the books in that list have been found; as to others, the list may have been merely memoranda for future purchases. There are classic Latin authors of the highest order—Virgil, Livy, Cæsar; “Cæsar’s Commentaries” we know he read some part of when at Stonyhurst. Among his books were the whole plays of Corneille, the great French dramatist, and of Molière, whom he read with an appreciation of character, knowing the distinction between one character of the “Misanthrope” and the other; so that he was not the perfect dunce and blockhead that he has been sought to be represented to you. In the list of books there are mathematical books, too, of the very highest order. I do not suppose that he ever read them, but it shows that the man had some idea of those sciences, as well as some appreciation of literary merit, and some literary taste. He writes to his mother when he was staying at Tichborne in 1848, that his time was passing very pleasantly; that while he went hunting and shooting, he also read interesting and instructive books. He refers to the works of Chateaubriand, with which he appears to have been familiar, and to other books; all which does not show, I quite agree, that this man was a scholar or man of learning or science, but it does show he had some taste for reading and sense of literary merit. At the same time, I am perfectly ready to admit, that his education had been neglected, and further that his intellect was not, even if it had been educated, one above par; still it was one which, with ordinary advantages and ordinary cultivation, would have produced an amount, and a very fair amount, of information as the world goes.

Next, as to the man’s character generally. Everybody seems to agree that he was a man of very amiable disposition and very pleasing manners: not merely that they were the manners of a man of refinement, but that he had the manners of a man of kindly feelings, of an amiable, gentle, and taking disposition. Yet, I do not suppose that there was much beneath the surface. I do not imagine that he

was a man capable of very warm affection. In the first place, it is quite clear from his letters and from his own language when he is opening himself in the fulness of confidence either to Mr. Gosford or Lady Doughty, that he had not much affection for either his father or his mother. If he had loved his mother filial piety would have led him to draw a veil over the darker shades of Lady Tichborne's character; he does not. He speaks of his mother in terms which one cannot help feeling are too strong for a son, even with the experience he had had of all the evils which resulted from her unhappy disposition. A son ought not to speak of his mother as "making a hell of her household to her husband and everybody in it," but so it is. Again, as to his father—he treats his father much more tenderly; and it is plain to my mind that his affection, as between his father and mother, was for his father and not for his mother. But he never thinks of consulting his father, or of yielding to his father's wishes. He never consults him; he acts for himself; forms his own judgment; does not make a friend of his father as a son should do; and in short in these relations certainly does not appear to us in the light of a man entertaining the feeling of warm affection towards those to whom certainly, however ill-judging they may have been, he owed filial duty and respect, and as to whom he must have known perfectly well, that however wrong they may have been in their system of education towards him, both loved him most warmly and affectionately. It is impossible to doubt from Mr. Tichborne's language and from his wife's conduct, that however foolish one or both might be with regard to the training of their son, they both loved him with intense affection. Again, with regard to Sir Edward and Lady Doughty—they had been a second father and mother to him; their house had been his home; nothing could exceed the kindness which they had shown him; but the moment Lady Doughty crossed him either in matters of interest, however trivial, or in the great matter of his love to his cousin, what bitter resentment he expresses towards her! Even the fact that she insisted on having certain articles of furniture, which he thought ought to go with the family heirship, makes him furious, and he speaks of her to her own steward in terms of disrespect. When, from a mother's feelings and anxiety about her daughter's future, she thwarts him in the matter of that daughter's affection, with what resentment he turns upon her!—not openly and undisguisedly acknowledged it is true, but manifested in those confidential letters which he writes to Mr. Gosford. Again, with regard to the Seymour family, they had shown him the same kindness; and if the relationship was not ostensibly acknowledged as far as the world was concerned, practically in all good and kindly offices Mr. Seymour had been to him all that a grandfather could be. Mr. Seymour dies, and his death seems to

have had no effect upon Roger. He speaks of it as coolly as if he had been a stranger. He was on good terms with the rest of the family, but I do not see anything to show much affection for any of them. Therefore so far as warm or deep affection is concerned, such as would have the effect of preventing Roger from withdrawing from his family and friends, I confess I do not see it, and this, I think, is so much in favour of the defendant; because if the defendant is Roger Tichborne he undoubtedly did for years entirely withdraw himself from all correspondence or communication with his family and friends. Nevertheless, though I cannot bring myself to think, upon a calm review of this case, that Roger had any deep or ardent affection for those towards whom in the natural state of things it might have been expected he would have those feelings, there is one thing, on the other hand, one cannot lose sight of, and that is that under no circumstances, even of irritation or anger, is Roger ever wanting in the observance of the outward proprieties and decencies of domestic life. He never failed to write to the various members of his family; he never failed to be anxious to have news of them. There never was a more determined and habitual letter-writer than he. He writes to his father, his mother, his aunt, and to Mr. Henry Seymour. He keeps up constant communication with his family and is never wanting in those observances which indicate a man sensible of propriety in this particular. All this will have to be taken into account in judging of the conduct of the defendant. Before I pass from this subject, I may observe that while Roger does not appear to have had any very deep or warm affection for those who are immediately connected with him, and in his intercourse with his father and his mother does not write to them in the terms of unreserved confidence which a son generally shows towards his father and mother, there was one person in the world in whom his confidence appears to have been perfectly unbounded, and that is Mr. Vincent Gosford. As I have before observed, there is no subject, however near his heart or however sacred, on which he does not write to Mr. Gosford. As regards his relations with his father and mother, his uncle and aunt, and above all on that matter which was nearest his heart—his love for his cousin—he writes to Mr. Gosford in terms of the most unreserved and unlimited confidence—a circumstance not to be lost sight of by-and-by when we come to see the defendant and Mr. Gosford brought into contact one with another.

The next part of Roger's character is his independent self-reliance and inflexibility of purpose. From his earliest days he never allowed any one to guide or direct his conduct. The scenes, which he had lived through, between his father and mother, had tended to shake his confidence in both, as he found that as surely as he pleased the

one he displeased the other ; and he tells us himself that this determined him at a very early period to judge and act for himself. We know that sons up to a certain time of life lean for support on a parent's guidance and advice—not so Roger. On the contrary, the suggestion of anything from either father or mother, so far from determining or directing his conduct, was quite enough to put his back up and apparently make him resolve to act as he pleased. When his mother is dissatisfied with his being at Stonyhurst, not only does he determine to stay, but he rebukes her sternly for interfering in a matter about which his father and he knew better than she did. When he leaves Stonyhurst she is very anxious that he should go back ; he peremptorily refuses. He wishes to go into the army ; the father and mother oppose it. There is what he calls “ a great blow-up ” at home. He perseveres and goes into the army. His regiment is supposed not to be going on foreign service ; he makes up his mind that he will not stay longer at home leading the idle life of a soldier not on active service. He will exchange into a regiment in India. “ For God's sake,” his aunt writes to him, “ don't go to India. Your uncle is an old man, your father is an old man, and if you go to India for many years you will not see either of them again. You are the heir and hope of the family. You may lose your health in that climate ; you may die ; don't think of going there.” He says, “ I will.” His regiment is ordered for foreign service ; he rejoices ; the order is countermanded ; he is disappointed ; and he tries to effect an exchange, and when he does not succeed in that he makes up his mind to pass his time in foreign travel, and he determines to go to South America and Mexico. There is the same lamentation on the part of the father and mother : “ We shall never see you more.” There is the same remonstrance against his exposing himself to all the risks of foreign travel ; but it produces no more effect upon him than the wind which passes by and is unheeded. So with regard to matters of property. The scheme of the father and uncle, in which one might naturally have expected that the son and the nephew would willingly acquiesce, is proposed to him ; but Roger has made up his mind that the Upton and Dorsetshire property shall not be sold. The father may storm, the uncle remonstrate ; it is matter of indifference to him, he has made up his mind, and that stern, stubborn mind of his will not be swayed one way or the other by any influence that can be brought to bear upon it. He knew that the object of the father and uncle, descended from a long line of ancestors who had lived from generation to generation at Tichborne, was to aggrandise Tichborne, now that the Doughty property had come to them, by making that available for the purpose of acquiring lands in Hampshire, and making the family of still more consideration and importance than it had hitherto been, notwithstand-

ing the antiquity of the race. But such was not his view; he says, "It is too large a property for one family and I shall divide it into two." He knew perfectly well that he could do nothing which would be more repugnant to the wishes and the feelings of his uncle and father than the course he was then adopting in making this will. He does not care. He does not let them know what he is doing; but he goes to his lawyer, and says: "Make me a will to this effect." He must have known that if he died before his uncle and father that will would cut them to the heart. He did not care. He has made up his mind to do it: he judges for himself, he acts for himself, and he makes his will; and if Alfred had had a second son, the effect of the will might have been to divide the property in the way he thought of doing; though that purpose will now be frustrated because Alfred had but one son, and that son must, consequently, if the defendant be not Roger Tichborne, necessarily inherit the whole. But so far as he was concerned—as his purpose and intention were concerned—his design was to divide that fine property, worth 20,000*l.* to 25,000*l.* a year, into two estates. I do not say that in principle he was wrong; he may have been right. It may be that large estates are productive of some social or political inconvenience, and it may be, at least it is the opinion of many people, that large properties are not desirable things. All I am pointing out is that Roger, in the provisions of that will and the dispositions created by it, was running directly counter to the wishes of everybody else in his family, uncle and father included.

The way in which this part of Roger's character bears on the case will be felt when you come by-and-by to observe how the defendant acted under the circumstances in which he was placed—how he became the creature of Lady Tichborne's control and will, yielding in everything to her direction and influence. You will judge whether you can see in this the character of the Roger whom we have thus been tracing.

Another trait in his character is his very keen sense of his own interest, and his careful attention to all matters of business. There are many instances of it. Sir Edward, through whom this large accession of property had come into the family, was without power to charge the Doughty estates, except for the jointure of his wife. Sir Edward, I think, very fairly said, "In the settlement which we are about to make"—this was the settlement of 1850—"let me have the power to charge on these estates a sum of 10,000*l.* to be disposed of by me by my will." Roger shakes his head. Large as the property was, which thus accrued to the family of the Tichbornes, and to him, through Sir Edward Doughty, he does not like the idea of his uncle having 10,000*l.* extra out of the property, and it is not until the uncle says, "Well, if you will not agree to it, I will not agree to your having 500*l.* a-year during my lifetime, and 1,000*l.* a-year afterwards," that he assents. He says that very plainly to Mr. Gosford: "As I find

my uncle will not let me have 500*L.* a year charged on the estate unless I assent to his being able to charge it with 10,000*L.*, I must give way. I accept the terms." When Lady Doughty wanted the furniture, you remember the disturbance he made about it. Again, you know Mr. Hopkins was desirous of raising on the estate 30,000 in favour of Alfred. Now if there was anybody in the world he loved—I ought to have made an exception in that respect—it was his brother. He always speaks of him playfully, as if speaking of a pet child. I do think he loved Alfred, yet when it was proposed to charge these estates with 30,000*L.* in Alfred's favour he objects. Alfred must depend on his will, he would make a provision for him, but he would not hear of this charge of 30,000*L.* Upon the whole, I cannot help thinking that he was a person who looked very closely after his own interests, and you will find that when his uncle Mr. Robert Tichborne dies, and again when Sir Edward Doughty dies, though he shows but little distress or grief at the idea of their loss, there is a thing which immediately occurs to him, "Pray let me know what they have left me by their will." With regard to matters of business, I called your attention as we went along to the various parts of the correspondence which relate to such matters in order to enable you to judge whether Roger Tichborne was not a man who fully entered into and appreciated all matters of business with which he had to deal. He reflects on his father for leaving himself in the hands of the lawyers, and allowing them to do as they please; he will not do that: "Let me see a summary of your scheme that I may study it." "Let me see the deeds that I am asked to sign that I may make myself thoroughly master of them, that I may thoroughly understand the subject. I give you instructions for my will," he says again to his lawyer; "but let me see it, and have the opportunity of studying it before the time arrives for my executing it." So that he takes pains to get at the bottom of things. He may have been dull, and slow of apprehension. He may have been as ignorant of law as a man who sweeps a crossing; but he takes care that in what he has to do connected with law, he shall thoroughly understand what he is called upon to do and what it is he is about to do. Whether in this he succeeded we shall have, by-and-by, to consider: as also whether the knowledge exhibited by the defendant of those matters of business through which Roger had to pass is such as you could have expected from Roger or not; in order to judge of that you must first be able to appreciate yourselves what Roger knew, as well as what he did.

Gentlemen, before we take our leave of the undoubted Roger Tichborne, which we are now on the eve of doing, there is one more point connected with his character upon which it is necessary to say a word, namely, his habits. Now I have already said, with reference to one particular part of the subject, that I think it was a mistake to

hold him up as a sort of paragon of morality and virtue. I daresay that Roger Tichborne had his sins to answer for, as well as many other young men. How far that may be taken into account in respect of the sin which the defendant has professed to take upon himself is a matter which we shall have to consider when we come to that part of the case, and I need not dwell further upon it now; but the other point in his character as regards his habits, namely, the propensity to drink, is, I think, to be touched upon here. I think there cannot be the slightest doubt that Lady Doughty's view of Roger Tichborne, in that respect, was the right one, at all events, for a considerable time; and that he had, from a very early period, a tendency to drink too much. As to saying he was an habitual drunkard, I think that is all nonsense, and as for saying he so far indulged as to impair his intellectual faculties, and to become the sort of wretched, debased creature the learned counsel for the defendant represented him, that, too, in all probability you will think is going a great deal too far. There is no evidence at all to lead to the conclusion that he was what is called an habitual drunkard. The man drank more than was good for him. I daresay it was from a feeling of low spirits which he laboured under sometimes, and which led him to take wine or spirits as a means of giving him a more comfortable feeling about life; and it is possible he may, on a few occasions, have taken enough to make the effect of drink perceptible; but I cannot persuade myself the man was at all an habitual drunkard. He lived with the officers of his regiment, where we have no reason to believe drunkenness prevailed; and one or two of them, when asked the question, denied altogether that they ever saw him drunk, or that he was given to drunkenness. Captain Cunliffe did say, that at one time of his life, in Ireland, Roger soaked his brain, and used to get into a state in which it was doubtful whether he was perfectly master of himself or not. But we find him writing to say he had left off those habits and was doing his best to reform. And I cannot help thinking that Lady Doughty, in her later accusations against him, when he was at Canterbury, when she writes to him, that she has heard reports—which, by the way, he indignantly denies—was rather hard and unjust towards him, and that, although he might have still indulged a little too much, he was not, at that time, committing the excesses or drinking to the extent he did at a former period.

But the main importance of this part of the question is not so much to determine whether or not Lady Doughty was justified in opposing his union with her daughter, as with a view to consider whether the contention of the learned counsel for the defendant is well founded when he says that Roger Tichborne, by his excesses in drink, had brought his mind into such a state as that his faculties had become impaired, and his memory seriously affected.

By-and-by we shall find (and this is why it becomes material to consider this) indications of total want of knowledge on the part of the defendant of important parts of Roger Tichborne's life. This the defence seeks to ascribe to want of memory. Says the learned counsel, this want of knowledge is to be accounted for from the fact of his mental faculties having become impaired, and his memory damaged, by the long continued excesses in which he indulged. In order to appreciate the merit of that argument, it becomes necessary to satisfy oneself upon the question of whether Roger Tichborne was a man who was in the habit of indulging in the sottish enjoyment of the brandy bottle or of wine, so as to damage or impair his mental faculties. The matter is therefore one which, in all probability, you will think worthy of your consideration, and you will judge whether there is any evidence before you from which you can draw the conclusion which the learned counsel asks you to draw.

So much for the history and character of Roger Tichborne, of whom, for the present, we now take leave. We shall see him reappear, if he does reappear, in a new form, certainly essentially unlike the Roger Tichborne whom we have thus far known. The "Bella" went down, her long-boat was found bottom upwards, with portions of wreck floating about, her other boats disappeared, and nothing was seen of them. Weeks, months, years pass, and there come no tidings, no voice either from the sea or from the shore, to lead any one to believe that any of the persons who had been on board the vessel had survived her wreck. After a time, of course, although people hoped almost against hope, hope became extinguished, and there was nothing for it but to submit with resignation, on the part of those who were interested in the fate of those who had been on board of the "Bella," to the catastrophe of which no one could doubt. The wives of the men who had formed her crew looked on themselves as widows, and on their children as fatherless. The owners settled with the surviving relations of the crew, on the assumption that they were dead. Owners of ship and cargo claimed on their insurance, and the insurers paid. Everything was done as though the "Bella" had perished, and with her all those who had been on board of her. In July, 1854, fifteen months after the wreck, the executors of Roger Tichborne's will produced and proved it; and as their conduct has been reflected upon by the defendant, I am bound to say they had no alternative but to do as they did. You must act in the business and affairs of human life on certain well-established presumptions. If a ship is known to have gone down at sea, and nothing is heard of any body who was on board of her for fifteen months, with the facilities which now exist for communication in all parts of the world, you necessarily presume that those who were on board of her have perished. If it so happens that one of those who were on board of

her has left a will, it is the duty of the executors to come forward, and, acting on such a presumption, to deal with the will as though the testator was dead. And in this case the most serious consequences might have resulted if that will had not been produced, and, upon its production, proved. If Roger Tichborne had died intestate, his reversion in the Doughty estates would of course have gone to his heir-at-law. What if the heir-at-law had dealt with that reversion as he would have been entitled to do. He might have borrowed money on it; he might have disposed of it by deed; he might have disposed of it by will. What a state of confusion would have arisen if anything of this sort had been done on the assumption that Roger Tichborne had died intestate, when the executors had got in their drawer a will disposing of his reversionary interest. It was, therefore, their bounden duty to come forward as soon as the time had passed from which it could reasonably be inferred that Roger Tichborne had perished, and to produce the will and prove it. Besides which, not only as regards the interest and expectations of the living, but as regards the duty to the dead, it is incumbent on the living executor to take care that the intention of the testator, who has committed his will to be executed by him as a sacred trust, shall be, when the proper time arrives, carried into effect. So far from Mr. Gosford and Mr. Slaughter being to blame for having proved the will, so as to secure that its provisions should be carried into effect, they would have been singularly and sadly wanting in their duty if they had done otherwise than they did. Therefore the charges made by the defendant against Mr. Gosford in this respect are perfectly groundless, as must be manifest to any man of common sense. It is quite clear the executors could do no other than they did, which was, to prove the will when the time had come, which at the end of fifteen months, beyond all doubt, had come.

Well; everybody supposed Roger Tichborne to be drowned, with the single exception of Lady Tichborne, who still clung with a species of desperate tenacity to the fond and apparently groundless hope, as everybody thought it, that her son still lived. The father and mother put on mourning, but she who would have mourned bitterly for Roger in her heart if she thought he had perished, believed and clung to the hope that he still lived. Nobody else entertained that apparently delusive hope. The father, with a man's strong sense and firmness, seeing no circumstances that could lead him to doubt his son's death, was firmly persuaded of it. Everybody else except the mother entertained the same view. Time passed on; Alfred Tichborne, the brother, grew up to man's estate; he became of age; he desired to settle; he was the acknowledged heir of Tichborne and Doughty; his position was a highly distinguished and advantageous one in a social point of view, and he was therefore entitled to look for a matrimonial union with some lady of equal

rank and station with himself, and he sued for and obtained the hand of the daughter of a nobleman of ancient and distinguished lineage, Lord Arundell of Wardour, and married her—she naturally supposing that she was the wife of the real undoubted heir of the Tichborne property—and so things remained.

On the 11th of June, 1862, Sir James Francis Tichborne, the father of Roger, died at the good ripe age of 78; and, on the supposition that Roger was long since dead, was succeeded by his younger son, Alfred; and so things continued, and nobody dreamt that Roger Tichborne still survived in any quarter of the earth, however remote; when on a sudden, towards the end of 1866, there came a report, a startling report, that Roger Tichborne had reappeared; that from some nook in Australia a man had come forward, saying he was the long lost Roger Tichborne. People could hardly believe their eyes or their ears when they read or heard this surprising announcement. However, time wore on, and that which at first sounded like a romance or a dream, gradually assumed the character of reality. At last the defendant (the claimant, as we were then in the habit of calling him) made his appearance; and then, to the astonishment of everyone concerned, there appeared, not the lean, slim, spare Roger, but a man of prodigious bulk; not the Frenchman who spoke French by preference, and English only imperfectly and with a French accent, but a man who could not speak a single word of French, who had totally lost the French accent in speaking English, who no longer spoke English with a recourse to French idiom, but a man who spoke simple, unalloyed, vernacular English, certainly not the English of persons of the highest order or of a refined education, but still simple, vulgar, vernacular English. Then, to the still greater astonishment of those who had been related to, or intimately connected with, Roger Tichborne, the defendant, instead of hastening to seek them, kept himself aloof, moved about more or less stealthily, and in concealment, and seemed to shun and avoid all those who would be best able to recognise Roger Tichborne in him if he were Roger Tichborne, or who would be best able to judge of his being an impostor if in point of fact he was so.

It may be that all this was capable of explanation, that it has been explained, that the explanations which the defendant has given are satisfactory. That is for you to judge of; but undoubtedly his first course of conduct on his arrival in this country was not calculated to remove the distrust which his appearance and the past circumstances of his life in Australia so far as these were known, were calculated to engender; so that he did not meet with the recognition which he had hoped for either on the part of the Tichborne family or on that of the Seymour family. People waited, however, to hear what account he would give of his past life, and of his reasons for having remained so long in silence and obscurity in Australia; but it was

not for some time that all the circumstances were known. It was known that he had been in humble circumstances in Australia; it was known that he had gone under a feigned name there (that soon got about); but nobody knew the exact circumstances of the life he had lived there; still less did anybody know exactly how it was that he had escaped from the shipwreck at the time the "Bella" went down; and upon these points those who were interested in knowing whether he was Roger Tichborne or not were naturally desirous of learning the details. Nothing was, however, known for some months; if it was communicated at all it was only to those who were immediately in his confidence. As regards the public at large, as regards those who might be considered to be interested in the question of his identity, all those facts remained for a long time unknown. The very first question you would suppose the defendant would have been desirous of explaining, and which every one was desirous of knowing, was, how did it happen that the "Bella" foundered? one of her boats having been found bottom upwards, and no human soul connected with her having been heard of from that time, how was it that he had escaped? by what miracle, by what interposition of Providence had he been saved from a disaster which appeared to have involved every one on board? Those who first accepted the defendant as Roger Tichborne do not appear to have been curious to inquire into these details—to which I should have thought inquiry would have been immediately directed. Nor do they seem to have been anxious to know what were the phases and the various forms of the life which he had led in Australia.

Months passed on, and at last the time came when it was necessary that these details should be given by the defendant. It was optional with him to have given them to those who were most concerned in his identity, but he had a perfect right to say I bide my time; if you do not believe in me let it alone; I will make good my position hereafter, and when I have disclosed all the facts you will see that my narrative is the narrative of truth. He had a perfect right to take this course, and he did so. Whether a man confident in the truth and justice of his claim would have done so I do not now stop to inquire. But the time came when it was necessary to go into these details. He had come over to England with the intention of claiming the estates, to which as the heir of the Tichborne family he would be entitled. In order to get rid of certain technicalities which would have stood in his way in bringing an action of ejectment to recover the property, he was obliged to have recourse to the assistance of the Court of Chancery; and his advisers perfectly well knew that after an absence and a silence of twelve long years it would have been in vain for a man, who was not acknowledged by his family, to come forward to ask for the assistance of that court, unless he gave a full account of himself during the time he had thus remained absent and

silent; and it was therefore necessary for the defendant to make an affidavit, and in that affidavit to give an account of his escape from the shipwreck and of his landing in Australia and of the life he had led there.

Now the details thus given I will endeavour to place succinctly before you, and I will do it not merely with reference to the affidavit filed by the defendant, but also with reference to his examination *vivâ voce*, first under the direction of the Court of Chancery with a view to the proceedings pending in that court, an examination had before a gentleman of the name of Roupell, appointed by the court to take it; and more especially his examination on the trial in the Court of Common Pleas—the examination in chief, the cross-examination, and re-examination afterwards. Not that at the present moment I purpose to put the various statements made by the defendant in juxtaposition, and point out, as I shall have to do one of these days, the discrepancies that occur in them. I am going in the main to take his account as he last gave it, as that may be considered to be the statement by which he would desire to abide; and having placed his own statement before you, without entering into any matters of contradiction, I propose to take it and analyse it, and see what it comes to, and what degree of credit it is entitled to irrespective of all considerations in the way of evidence given, or contradiction offered, which would be calculated to detract from its credibility.

Now his statement is this—I went on board the “Bella,” and when I went on board I was in a state of intoxication: for two days I had been in a state of drunkenness, lying in one of the hotels, where they had a difficulty in finding me. In that condition I went on board. I was put away in one of the cabins which was used as a store room. There I got more drink, and remained drinking for three days and three nights, off and on, always more or less in a state of intoxication and unable to go on deck; but on the morning of the fourth day, having partially recovered from intoxication, I went on deck. It was about 10 o’clock in the morning: the night had been rough; but it was a fine morning, and the sea was smooth: I was leaning on the companion; the captain was on deck standing on the after part of the ship, and while I was so standing looking out from the companion, one of the crew—(on one occasion he says a mate, on another occasion a seaman, but I mention that only as a minor difference)—came up to the captain and told him the ship was very low in the water and he thought something must have happened. On this the captain, not having before observed that the ship was so low in the water, although he was on deck, immediately ordered the bell to be sounded, when it was found there were 12 feet of water in the hold. I may observe that the vessel was a ship of

300 or 400 tons: her hold was of the depth of 14 or 15 feet at the outside, and 12 feet of water in the hold would beyond doubt have brought the ship into the condition the defendant speaks of; namely, that she must have been so deep in the water as to be in immediate danger of sinking. To continue: The captain, who had not seen this before, having ordered the well to be sounded, it was found that the ship was in this state. Thereupon he desires them to go to work at the pumps, but after five minutes' pumping it was found that instead of the pumps gaining on the water the water was gaining on the pumps, so the captain gave up all hope of saving the ship and ordered the boats to be immediately lowered. There were three boats, a long boat on the deck of the ship, and two boats slung on the davits at the sides. One of those boats had met with an accident, had a hole in it, and was useless; the other boat was ordered to be lowered from the davits, while the long boat was lowered in the way such a boat is usually lowered. Then provision is made for those who are to betake themselves to the boats. The captain takes with him, in the long boat, the compasses, charts, and ship's papers; besides which provisions—namely biscuits, and a quantity of preserved meat are put in the long boat, and with them the water, which is a matter of absolute necessity for the preservation of life—all, instead of being divided between the two boats—is put in the long boat.

Then came the question, who should go in the long boat and who should go in the other boat in which no provisions or water was put. The captain betakes himself to the long boat and takes the command of her, directing the mate to take charge of the second boat. "No," says the mate, "I will do no such thing; I am not going in the boat that is not to have provisions and water in her. I mean to go with you in the long boat." The defendant tells us "they had words." No wonder, the mate refusing to obey the captain's orders! But it ends in the mate having his own way, and he goes with the captain, so there is no officer to take charge of the second boat. But just as the second boat is putting off, one of the men, who I suppose was to go with her, throws in a bag of biscuits, but unfortunately these biscuits got some sea water over them and they were spoilt.

But what became of Roger? He does not, according to the defendant, express any desire to go with the captain in the long boat, but got into the second boat, the smaller boat. They had no provisions and no water, but were directed by the captain to follow the other boat, and to come up to it from time to time to obtain provisions and water. All these preparations occupied about an hour. Scarcely had they put off in the boats when the ship went down in their sight. The defendant goes on to say that during that day and the following night, and the next day and next night, 48 hours, they followed,

according to the directions they had received, the course of the long boat in which the captain was, and got their food and water morning and night by pulling up alongside of that boat. Neither boat appears to have had mast or sail, and they had to trust entirely to their oars. In the course of the second night from the time they had got on board the boats, it came on to blow, the sea became rough, and it was dark. They lose sight of the larger boat, and when dawn or morning came it was no longer to be seen. What had become of her, whether she had gone down in the rough weather during the night, or whether the force of the wind and waves had driven her to a distance, we are not told. They never saw her more. Then the whole of the next day, the third day, and that night, the third night, they are without water, they are without food, except so far as those soaked biscuits furnished them with it. On the morning of the fourth day they descry a sail in the distance. This, of course, would renew life, and they immediately pull to the best of their ability in the direction of the ship, but they are disappointed in overtaking her. Now and then the wind lulls and they gain on the ship; then a breeze springs up and she appears to sail away in the distance, leaving them baffled in their hope of overtaking her. At last on one of the occasions on which they approached somewhat nearer to her, it occurs to one of the sailors to take off a red shirt he was wearing, to stick it on one of the oars and hold it up as a signal of distress. Then they are seen by the ship, a signal is made that they are seen, and the vessel stands on the tack which would bring her towards them, and after a time comes and picks them up.

Then, says the defendant, having been three days and three nights in an open boat, and having been exposed to the scorching rays of the sun, I was so exhausted and ill, that by the time we were picked up by the saving vessel I had become insensible, and in that condition I was taken on board, and I remained in that state for some time; nay, more, it was not merely that I was insensible, I became delirious, and for a long time I was subject to fits of delirium; not that I was always in that condition; sometimes I was well enough to dine at the captain's table; at other times I was unable to leave my berth. I was treated with all possible kindness; I had such medicine given me as the captain's resources would afford, and he did all he could in the way of hospitality, affording me whatever he had at his own table, giving me wine or whatever I wanted. But I was during the greater part of the time in such a state of illness and occasional delirium that I could not take part in what was going on so as to enable me to give you an account of what happened on board, or to say for certain what was the name of the captain, or of the ship, or the port to which she belonged.

For, these, you see, are the particulars as to which persons would ask

for information. They would say—"You say you were in a condition at sea in which death appeared impending and inevitable; you were picked up by a vessel when hope must have disappeared; you received every kindness which could have been offered to you on board that vessel, according to your account; at the same time your story is a strange one, and therefore we ask you, with a view of ascertaining whether the story is true, what was the name of the ship, what was her nationality, where she came from?—I cannot tell you. I am not aware what was the name of the ship. I believe, but I am not sure, my impression is, that her name was the 'Osprey.' Cannot you tell us where she came from?—I cannot. Can you tell us the name of her captain?—I think it was Owen Lewis, or Lewis Owen. Are you not sure?—No. Well, but how do you account for that? Is it possible a man can have been saved from impending death, and after having been three months on board the vessel which saved him, be unable to tell when asked what the vessel was and where she came from? He accounts for that in a manner which may be more or less reasonable. He says, I was ill, and so ill that I could not ascertain these particulars. I was well enough, it is true, to tell my own name. I told them who I was: that I was an English gentleman, and that my name was Roger Tichborne: and I was treated as a young English gentleman would be treated. I can tell you this about the ship: she was larger than the 'Bella;' she was a ship, ship-rigged, by which I mean a vessel that had square yards on all her masts, which is what constitutes a ship." So far he was enabled to observe and can afford us information; but he knew not where the ship came from, nor can he state with certainty what her name was, or the name of the captain.

When the vessel arrives at Hobson's Bay, the port of Melbourne, which was her destination, he goes on shore with the captain and goes to Melbourne. He accompanies the captain to an establishment which he believes was the Custom House, where it would be the duty and the business of the captain in the first instance to go, and having gone with the captain to the establishment which he believes to have been the Custom House, the captain takes him to another place at which he sought to obtain for him a passage to England, if a passage could be obtained. Of course the natural thing would be, if a man intending to go to New York had been cast away at sea with nothing but what he stood up in, and had then been picked up by a vessel which took him in the very opposite direction from that in which he intended to go, that, finding himself unexpectedly on an unknown shore, where he had no resources, where he had no means, and where he had no desire to stay, he would wish to get back home as soon as he could. Accordingly the captain inquires if there is a passage home to be had. The answer is "no." Melbourne is said to have been at that time in a state of disorder from the raging gold fever. The ships could not

get crews (the men deserting to the gold fields) to navigate them back to the places whence they came, and regular intercourse with England was suspended. The defendant tells us that the consequence was that he went back with the captain to the ship, and slept on board. The next day he again went on shore with the captain; and then, wandering about Melbourne, he finds himself in a yard where a sale of horses by auction was being held. Some horses are exhibited, and one of them is a horse that was bucking about the place. A stranger says to him, Do you think you could ride that horse?—Yes, I am sure I could.—You must be a very good rider then? A conversation ensues, and then the stranger says—If you can ride like that I can find you employment. I want a stock keeper at a cattle station some 300 miles in the interior of the country. Have you a mind to go?—30s. a week; not an unpleasant employment; an easy life, only looking after cattle in the runs; bringing them in; occasionally slaughtering them; and besides that, if you are fond of sport, there are opportunities for sport in the way of hunting and shooting. So, says the defendant, I accepted the offer. I did not even go back to take leave of the captain, but I followed the stranger to his hotel. I left the captain in utter ignorance of what had become of me. I went with the stranger, who afterwards turned out to be a Mr. William Foster, the manager and superintendent of two cattle stations at Boisdale and Dargo, belonging to his uncle, John Foster. I went with him to his hotel, I stayed there that night, and the next morning at daybreak we started off on horseback to do the journey to Boisdale, where I was to be employed. I had arrived at Melbourne on the 24th of July, or at all events a day or two from that time, one way or the other. I started with Foster on the morning of the third day after I arrived; I went with him straight to Boisdale; I stayed at Boisdale in his employment as a stock keeper at 30s. a week for 18 months: he then transferred me to the other station at Dargo; there I stayed 19 months, having my wages raised from 30s. a week to 40s. I stopped there 19 months, and then, a man having been murdered, I would not stay by myself at this lonely station any longer. I went back to Boisdale and remained there three or four months, and then I finally left. When I left Boisdale and the employment of Mr. Foster I took to horse breaking and horse dealing. I went about the country picking up young horses and breaking them and selling them. I did pretty well at that. I got tired of it however, and then I took to butchering. After that I cannot exactly tell you what I did; I was loafing about for 12 months, first at one place and then at another. After knocking about the country I got to a place called Tumut; there I set up a butcher's shop, but for want of capital I could not go on, and at the end of seven months I failed and had to give that up. Then I went to Wagga-Wagga, but before I finally settled

there I took the employment of riding the mail between two places called Boree and Narrandra, a distance of some 70 odd miles, an employment in which I continued for several months.

Then I went to Wagga-Wagga and there I finally settled. I entered into the employment of a Mr. Higgins, who kept an hotel there and had also a butchering establishment, and I became the foreman at the latter at weekly wages. I continued with him for some time, and then I thought I would set up for myself. I did set up for myself, and from the same cause which had prevented my success before, I again failed, and failing I was for a man in my position considerably in debt, so much so that I desired to have recourse to the Insolvent Court. I was pressed by creditors, and I had to give up my business and come back again to my work of journeyman to Mr. Higgins, and it ended, in the result, in my being in debt, poverty, and distress, more especially when I married, which I did, at the beginning of the year 1865. Thus I remained until the fact of my being Roger Tichborne was discovered in a singular manner by a person of the name of Gibbes, an attorney, carrying on business at Wagga-Wagga. He found me out, he drew me forth from the obscurity in which I was living: he impelled, or rather compelled, me to come forward as Roger Tichborne, and here I am.

Now, gentlemen, it is impossible, I think, not to see that this account given by the defendant, whether it be true, or whether it be false, labours under inherent difficulties of a most formidable character. I pass by for the moment all the difficulties which attach to the narrative of the shipwreck, the foundering of the "Bella," the taking to the boats, and his being saved by a vessel which he says he believes to have been the "Osprey." I take simply that part of the narrative which supposes him landed in Australia, from the time of his arrival there till he leaves. In the first place, is it conceivable that Roger Tichborne would have remained twelve years without writing home? Judging of the man by all we know of him, is there any one who could have said, reasoning from his antecedents, that Roger Tichborne would have allowed father, mother, and friends to remain in perpetual perplexity and ignorance of his fate? Would you not have expected that, long before the ship cast anchor in Hobson's Bay, he would have seized pen, ink, and paper, and put down, just as he did when travelling in South America, the incidents of his voyage, especially the fact of his almost miraculous escape; or if he had not done that during the progress of the voyage, would you not, at all events, have expected that, as soon as the vessel was anchored in Hobson's Bay, he would have taken pen, ink, and paper to write and relieve the misery and anguish, which he must have been perfectly well aware would be existing in the minds of his father, mother and relations as to what had become of him? He would be,

of course, perfectly well aware that the "Bella" had gone down; he would be wholly uncertain what had become of the people in the other boat; and even if they had survived to write home, and say that those on board the "Bella" had not gone down with her, but had had time to betake themselves to their boats, still that would have left it quite uncertain whether those in the second boat, in which the defendant says he was, had survived or not. Therefore, if no tidings came from him, it would be assumed he was dead. But assumed to be dead after how much poignant misery; after how much agony, how much of "the hope deferred which makes the heart sick." Could Roger Tichborne have failed to reflect that every morning when the postman's knock or ring was heard, father or mother would rush to the door to see if there were any tidings of him. Every time they took up a newspaper, they would refer to the shipping intelligence to see if there was any mention of the "Bella." It is difficult to believe he could have been insensible to these things; besides, he must have known perfectly well that every day's delay (although it might tend to put an end to their suspense and make them resign themselves to the prospect of his fate), would still make the assurance of his death stronger and stronger: every day he delayed was so much added to the anguish and misery of his parents. Is it possible that Roger Tichborne would not have written home a few lines to say, the "Bella" is gone down; you have probably heard of her wreck, but do not be alarmed about me; I am safe; I am in Melbourne. If he had written only that much it would have put an end to this most painful state of suspense and sorrow. He goes on shore the first day and then goes back to his ship; he has an opportunity of writing but does not write; he goes on shore next day and makes up his mind to go to Boisdale; he goes to an hotel, he spends the afternoon, the evening, the night, there; plenty of opportunity before he left Melbourne on the long journey into the interior, to take pen and ink and sit down and write. But he does not: he goes away, he goes into the interior, stays there for months, for years, never writes a line; he goes further on in his wanderings, in his migrations in that country, but never does it occur to him to write a single line to put an end to the suspense and misery he must have known his parents were undergoing on his account.

It is true there are men who are perfectly callous and indifferent to the suffering of others; men who consult only their own interest, their own convenience, their own ease, and who as long as these are satisfied are reckless and indifferent as to what others may have to suffer. We have an instance in this very case. Arthur Orton is an instance of a man who was perfectly indifferent as to whether his father, mother, brothers and sisters, thought him living or dead. We know that from June 1854 until 1866 no tidings of their son had

come to gladden the hearts of the old people at Wapping. The mother went to her grave, she was followed by her husband, and they both died in total ignorance of what had become of Arthur. But was that like Roger Tichborne, the incessant letter-writer, so greedy of news? Surely not. What was the final intention of Roger as to future communication with his family when he went on board the 'Bella'? You see how the question now becomes one of importance. Did Roger Tichborne when he went on board the 'Bella' intend to cut off all communication with his family, relations, confidential friends? The answer is—certainly not. There is not a single letter in which he does not say, Write to me by return; write to me at such a place; take care your letter is there by such a time in order that I may not miss it; don't send it to this place because it will not be in time: send it to that; write by return of post in order that I may be sure to get it. To every person to whom he writes he addresses the same earnest entreaty for further correspondence. Would he, do you think, be so changed by finding himself at Melbourne, instead of being carried to his intended destination, that he would drop all correspondence, all communication with the persons to whom, two or three months before, he had been constantly writing, and entreating them to write to him in return? Roger Tichborne's letters show that he eagerly desired to know what was going on in England in regard to his different relations. What was there in finding himself in Australia which would change his feelings on that subject? He tells his mother in his letter to her, he intends to write to her from all the principal places at which he shall touch. What is there to alter his feelings towards his mother, or towards anybody else—to induce him to remain perfectly silent and treat everybody—father, mother, all his relations—with complete and lasting indifference?

It may be said he was too ill to write during the time he was on board the saving ship. It may have been so during part of the time. But the defendant himself does not say that throughout the latter part of that time he was not in a condition to write—such a statement, had it been made, would have been utterly absurd. He was well enough to go on shore with the captain the first day and go up the river to Melbourne; he went and came back again. The next day, the second day, he goes to Melbourne again; goes to an hotel, spends the night, and starts in the morning for a journey of more than 300 miles on horseback; he immediately enters upon the laborious employment of stock driving, slaughtering, and the like, and remains for months in that employment. It is impossible to say of a man capable of exertion of that sort, that he was not in a condition to sit down and write a few lines to say he was saved from shipwreck and death. It would be still more idle to say that as time went on, his health was not suffi-

ciently good to enable him to write. Why then did he not write? can any reason be assigned? has any reason been assigned in any way to explain the fact of his not doing so? It was, indeed, attempted to be said that he had had some quarrel with his father. I shall call your attention to that part of the evidence by-and-by, but it is quite clear it is a mere idle pretence. There had, it is true, been a dispute about Upton; the father had written to Roger about Upton, and he had written back a cross letter, but after that their relations appear to have been as happy as before. I observed to you that in the last four months of his remaining in England, he went no less than three times to Paris to see his father and mother. It would be therefore untrue to say there was any quarrel or dispute which would account for his not writing home. His learned Counsel, I remember, in examining him in chief, asked the question whether he had not had a cross letter from his father at Rio: he said, "yes, he had had a cross letter from his father at Rio; that his father complained of his spending so much money." But he spent no more money than he was entitled to; he had his own income of 1,000*l.* a-year, and if he chose to spend that there was no reason to find fault with him; so that I don't see why his father should write him a cross letter on the subject of the money he was spending. But suppose such a letter had been written, is there anything in a father writing a cross letter which would induce a son to withhold from father and mother the knowledge of his safety, when he must have known they were mourning and lamenting over the belief of his death? But the defendant gives another reason; he says: "I went away in a hurry, and when I got to Boisdale I was incessantly occupied; I was in the saddle from morning to night, and there is not the same convenience in the Bush that there is in a more civilized country." The answer to that is obvious: a man can always find time, however much he may be occupied, to write a few lines on a matter of such vital importance to those to whom he ought to write as the knowledge of his being preserved and being alive. What son would have failed to sit down for half-an-hour, and write? That there are pen, ink and paper at the stations in Australia, we know perfectly well. To use the Virgilian expression, "the sun does not yoke his horses to his chariot" so far from the Australian world, as that the latter should not in some degree enjoy the advantages conferred by postal communication. Is it common sense to suppose that a man could not have written a few lines to say he was safe and well, and send that off by post to England? or that it would not have reached its destination?

But there is another reason which he gives, which may seem at first sight more satisfactory: he says, "I was about to undergo a species of social degradation: heir to a title and a large fortune,

I was about to accept a menial, or, at all events, a servile employment. I did not want people at home to know it." I quite feel the force of that argument, and if the defendant had been compelled to accept that servile employment as unavoidable, I can understand that pride might have made him wish to keep the thing secret. It would still have been a false pride: for, if a man is assailed by fortune, there is no form of employment, however lowly, if it is honest, of which he need be ashamed. Nevertheless, I can quite understand that a man knowing that his friends would be shocked at the idea of his submitting to this species of social degradation, might hesitate to communicate the fact. But are we not here getting out of one difficulty by getting into a much greater one? Is it not like a man who, endeavouring to get out of a quagmire, withdraws one foot by pressing on the other, and only gets deeper in? For we have a still greater difficulty to deal with. In the name of common sense, what should induce Roger Tichborne to accept employment as a mounted herdsman at 30 shillings a week? Had he no resources? were there none he could have recourse to even at Melbourne? It was not as if an adventurer had presented himself who had the appearance of having dropped from the clouds. I can quite understand that if a man who had nobody to vouch for the truth of his tale, had presented himself at an hotel and said, will you be kind enough to take me in, I have been shipwrecked and picked up in an open boat—the landlord would have shaken his head and said, "I have heard such a story as that before." If he had gone to a tradesman and told the same tale, and had asked to be supplied with clothes, he would have been met in like manner; the tradesman would have said, "That won't do." If he had gone to another for food, there would have been a similar indisposition to listen to him. But Roger Tichborne would have had the advantage of the presence of the captain of the American ship—or whatever nation she belonged to—who would have vouched the truth of his story, and said, "I picked him up in an open boat, into which he had got from the shipwreck of an English vessel; I picked him up as he stands, with nothing but what he had on him, and I have brought him here on board my ship." If he had desired to go back to England the captain would have procured a passage for him. If he preferred to remain at Melbourne till he could hear from home, what hotel-keeper or inn-keeper there would not have opened his house upon hearing such a story of distress, vouched for by a respectable and credible witness? Men are not less generous and less kindly disposed out in those regions than they are here. What respectable tradesman, if he had gone to him with his story, with the captain to vouch for him, would have hesitated to let him have the things necessary for his subsistence for the time. Even if these resources failed, there was the

Governor to whom he might have applied. If he had gone to the Governor of the colony at Melbourne and said, "I am the heir of the house of Tichborne, which you as a man living in the world must know the name of; I have been shipwrecked; I was picked up by a ship, I am helpless, interpose on my behalf, that I may not be left destitute here, until I can communicate with my friends and get the necessary resources from England," can anybody doubt that the feelings of a gentleman would have been sufficient to induce the Governor, as a generous-hearted man, to interpose and endeavour to obtain for him the things of which he stood in need. But suppose that even all this had not occurred to Roger Tichborne, or that he had been too proud and independent to condescend to ask anybody for assistance, and that having the opportunity of employment, rough, rude, laborious, but still employment that would produce the present means of subsistence, he was not ashamed of having recourse to it, can one suppose that Roger Tichborne would not at the same time have sat down and written to England? Even if he did not choose to write to his friends and relations, he could have written to his bankers. He was a man who had a thousand a year of his own, independently of anybody; so that even if he had been seized by a sudden fancy for this Australian life which his counsel has depicted in such glowing colours, still would it not have occurred to him that, if he chose to remain out in Australia, it would be better to have his own thousand a year than to be dependent upon employment producing 30s. a week, and attended with arduous and severe labour? Should you not have expected that if Roger Tichborne made up his mind to go with Mr. William Foster to Boisdale, he would have taken care to write to England, to his father, or to Mr. Gosford, and have said, "I am shipwrecked, I am here at Melbourne, I am destitute, I have accepted an employment for the moment in order that I may not starve: hasten to the bankers and send a remittance that I may take the earliest opportunity of coming back to England."

Even supposing that he had been attracted by the representations of Mr. Foster—who he says told him it would be a very easy life and that he would have plenty of sport in hunting the emu, the kangaroo, and the dingo, the native dog—glorious sport, no doubt, as contrasted with the tame amusement of fox-hunting in Hampshire—supposing that led away by these attractive representations, he had gone to Boisdale, what would he have found the life to be when he got there?—Occupation in the saddle from morning till night—for such is his own account of it—living in a wooden hut with associates such as certainly Roger Tichborne had never known; on plentiful, if you please, but coarse food, cooked by one of themselves; sleeping in this hut with seven or eight companions, on beds of bark, with no linen, with no covering but coarse blankets, in an atmosphere so stifling,

according to the account of one of the witnesses, that the men were glad to get out of it and sleep under trees in the open air; living with associates of the rudest, roughest, and coarsest class—many of them very honest fellows, I daresay, but men of coarse and low habits, very different from the officers, commissioned, and even non-commissioned, of one of Her Majesty's regiments—is it likely that Roger Tichborne would have remained in such an employment, or have led such a life, a day longer than he could help? A man accustomed to all the luxuries and comforts of refined life, and among them to that first of all luxuries, but which becomes from habit an actual necessary, the luxury of the toilet, the abundant lavations, the clean shirt, everything that tends to cleanliness and neatness, and thus to the maintenance of health and the enjoyment of life. Besides which, he was a man accustomed to that which really becomes second nature at last, the constant attendance of a servant. He had had one from the time he left Stonyhurst; when he went abroad, he took Moore; when Moore could not travel with him any further he took the valet, who, he said, brought with him eighteen years' certificates; that man failing also, he takes another, Barraut, who was to have accompanied him on his future travels, but who, for some reason or other, which we do not know, refused to go any farther than Rio, so that he was obliged to go on board without a servant; but, depend upon it, he meant to take another when he got to New York. Here is a man accustomed to the comforts and enjoyments of a highly civilised and refined life, who suddenly finds himself cast into such a kind of life as that to which I have just been referring: can we suppose he would continue in it an hour longer than he could help?

No doubt if there is a necessity to submit to social degradation and change of life a man must submit to it. If a man has done anything to compel him to leave his country, he must do what he can in the land of his exile. If misfortune has overtaken him, and he is precipitated from affluence to poverty, he must do the best he can. But here we have a man voluntarily submitting to self-imposed exile and self-imposed poverty, to privation and hardship and severe labour, which he might at once, by a word, have relieved himself from. When Roger Tichborne, if he was Roger Tichborne, discovered the sort of life he was called upon to lead, would you not have expected that he would have said, "This is unendurable; I must write home at once, and say where I am; I must obtain funds, and get out of this as soon as I possibly can"?

But even supposing that he bore with this life during the time he remained at Boisdale and Dargo, what should you say as to that which takes place afterwards? He leaves the employment there and, to use his own phrase, goes knocking about the country. At that time

the romance of the wild life, if we can suppose it to have existed up to that period, had certainly come to an end. If there was any enjoyment in thus living in the forest in Australia, as was put forward on the former trial, and has again been repeated on this, it comes to an end when the life at Boisdale terminates. He now takes to horse-dealing. What romance is there in that? Horse-dealing? I do not know that I should do him wrong if I said occasionally horse-stealing, for there seems to have been something of that kind in more than one instance. But, at all events, horse-breaking and horse-dealing. Then we come to trades. He becomes the servant of a butcher, and afterwards sets up as a butcher for himself. Now I can quite understand a man who is under the necessity of finding his own means of subsistence by employment, turning to some trade or business; but then he usually betakes himself to something for which his former habits may have given him some predilection and aptitude. I can quite understand that if Roger Tichborne was driven to have recourse to his own resources, he might turn horse-dealer or horse-breaker. He had been used to horses all his life; in the regiment he must have seen many horses broken, and might have acquired the knowledge of breaking horses. Breaking horses and dealing in horses may be closely allied, and, therefore, if Roger Tichborne determined to stay in Australia, and not to have recourse to others, he might have taken to breaking and selling horses; but what on earth should inspire Roger Tichborne with the notion of turning butcher? His prior habits and calling had nothing which would lead him in that direction. It may, however, be said that, if he was obliged to have recourse to a business or trade of some sort, he might as well take to that of a butcher as to anything else, and as they cut up meat in a rough sort of way in Australia, he would very soon learn how to do it as they do it there. But, according to the evidence, he does it with a master hand. Where he could have acquired that skill I am at a loss to conceive. Moreover, however good that particular employment might be for the purpose of serving him in his necessity, I cannot suppose that it was so attractive to him as that for it he would give up home, friends, family, and all other attractions in this, his own country. Why should he go on and stay in Australia for the sake of being the slaughterman of Mr. Higgins the butcher; or of setting up in that line of business himself? Besides, every one knows that in a business of that sort you want capital. Roger Tichborne would have known perfectly well he had nothing to do but to write to England to obtain funds. He would have been entitled to them, and would have received them, and then he would have been able to carry on the trade, if he had any predilection for it, with advantage. He does not. He will not communicate with England. Then after a time he enters on a life which, to my mind, is a most terrible obstacle in the

way of supposing that this man can be Roger Tichborne. From all we have ever heard of Roger Tichborne, up to the period of his going on board the 'Bella,' though he might be a man with evil propensities in the way of moral conduct, or with a tendency to drink, he was an honest man, a truthful man, an honourable man; but now you have him represented as the associate of robbers, outcasts, ruffians, men of the coarsest and most brutal conduct, men who do not scruple to commit murder if it is necessary for the purpose of their unlawful trade, who do not hesitate to murder men or women—the notorious bushrangers of Australia. We have Roger Tichborne represented as consorting with these men, going about the country with them, and, if not a party to their nefarious practices, at all events the associate of men who he knew were every day violating the law. Can we believe this is the man against whose conduct and character as regards honesty of dealing and obedience to the law there never was a suggestion of reproach? All this is deserving of serious consideration. Afterwards he settles at Wagga-Wagga, and there again we find him having recourse to the trade of a butcher—a trade with which of course Roger Tichborne can never have had anything to do—submitting to reverses and failure, yet never making the slightest communication with home in order to obtain relief from his insolvent condition, or the means, if he did intend to remain in Australia, of setting up in business with success and satisfaction to himself.

Now, gentlemen, you must judge for yourselves whether these considerations do not lead you to think that the story of the defendant is one which is open from the outset to very grave suspicion. At the same time, far be it from me to say that the facts are impossible. The eccentricities of the human mind are multifarious. It is not every one who continues in the beaten track. There are instances of men who have done quite as strange things as the defendant, if he is Roger Tichborne, must be taken to have done. But these are exceptions to the rules by which human experience enables us to judge of human conduct. And it must not be forgotten that, while we should make due allowance for the possible eccentricities of the human mind, it is necessary, in estimating men's conduct in the affairs of life, to frame for ourselves some standard by which to judge of human actions, as the result of the common experience of mankind.

Now, we know what are the motives which generally operate upon the human mind and influence men with regard to their interests in life. What is it that men toil for? What is it that they strive for in the race and battle of life? For wealth, according to their relative positions and station in society: to gain it if they have it not; to keep it if fortune has been kind enough to enable them either to inherit it

or acquire it. Position and affluence are what all men desire to attain. Generally speaking, according to universal experience, men do not renounce wealth to embrace poverty. No man throws away affluence, and ease, and pleasure, and all the advantages, social and intellectual, which those things bring with them, in order to embrace a life of privation and toil. Such is the result of common, universal experience. When, therefore, you find a man saying, "I, the heir to a fortune, have chosen voluntarily to lead a life of exile, a life of hardship and labour, a life of disrepute and vagabondage," you naturally ask him what is the explanation he has to offer of conduct so entirely different from that of the rest of mankind? What is the answer here? The answer the defendant gives is, It was my pleasure; I did not write home because I had employment, and I did not want money, at least for a considerable time. I had wherewith to buy what I wanted in the way of clothes and food. I had enough to satisfy the exigencies of nature in the shape of meat and drink, and I did not want more. That may have been so; but is it in any degree probable? It must certainly be a strange mind which forsakes all the comforts and conveniences which affluence brings—to embrace such a life as the defendant represents himself as having chosen. Such, however, is his statement. He did not want for money: he had enough to satisfy his desires, and therefore he did not choose to communicate with home. You must judge whether you think this a rational explanation of conduct apparently so anomalous and strange. Moreover, the statement is certainly not true as regards the later part of his Australian life.

But the defendant has given other reasons for remaining in Australia. First, he would have had it believed that he had had a quarrel with his father; secondly, he stated, that on leaving Europe he had resolved not to return so long as his father lived. He was asked before Mr. Roupell, "Had you any quarrel with your father?" and his answer is, "I decline to answer that question." That is the answer he made to Mr. Chapman Barber. "Had you any quarrel with your mother?—I will not answer that question." Mr. Chapman Barber asked him, naturally enough, "What reason had you for not writing to your father? Had there been any quarrel between you?—Well, I think you might leave that out," he says. "I do not mean to leave it out.—Then I shall decline to tell you whether there was or not. I request to know, and must know. MR. BARBER: You had better take down this question and answer." Then the shorthand writer reads his note commencing with the question, "Did it not occur to you, when you arrived destitute at Melbourne, to write to Sir James Tichborne?" to the words, "I request to know, and must know." Then the examiner interposes: "The counsel says, he requests to know, and must know. Witness,

will you answer the question?—No, I will not.” Mr. BARBER: “Did it not occur to you to write to Lady Tichborne?—It might have done so. Q. Had you any quarrel with her?—I decline to answer that question.” When he is under cross-examination on the trial, he is asked: “Had you any quarrel with your mother?—No, I had not. Q. Why, when you were asked before Mr. Roupell whether you had any quarrel with your mother, did you decline to answer it? You say now you had not?—Very properly, I think. Q. Why did you decline to answer that question before Mr. Roupell?—Very properly. Q. Why?—Because there were very few sons but what had a quarrel with their mother. Q. Was there any existing quarrel which prevented you writing to her?—No, certainly not: It was never put to me in that way. Q. You declined to answer, and it was put in that way: Did it not occur to you to write to Lady Tichborne?—It might have done so. Q. Had you any quarrel with her?—I decline to answer that question. Q. Why did you say, No?—Why did I say, No? Q. Yes?—I do not know, I am sure; only I did say no: I cannot tell you. Q. Cannot you tell me?—I thought it was a very impertinent question.”—It was a fair and legitimate question with a view to see if any explanation could be given why he had remained twelve years without any communication with his father or mother, to ask, “Had there been any quarrel which prevented it?” Then the foreman of the jury interposes, and says: “If we rightly understand, the reason of the plaintiff’s long silence in Australia was caused by the quarrel between him and his father?” Then the defendant says: “I did not say so; I never even imputed such a thing.” Then the Lord Chief Justice says: “You would like to know, gentlemen, what his reason was for not writing: It occurs to my mind to ask what was his reason. What was your reason?” The only answer the defendant makes to that question is, “I had had no particular reason. I did not care about going back on the sea again just at that time. I was glad to get down in the country.” Then he is asked: “What was the reason for not writing to your father?” “I had no reason; I was going into the bush; there is not the convenience there that you would find in London, or in England: It went off from time to time.” Then he is asked: “Had you any reason for not writing to your mother?—I had no reason whatever for not doing so. Or your aunt?—No, no reason.” That put an end to all notion of a quarrel. There never had been a quarrel except some temporary misunderstanding with his father; and this ground of explanation is wholly given up in the end.

The only other reason for remaining in Australia is the one he gave in answer to a question put by Mr. Giffard, I presume at the instance of the defendant himself. Mr. Giffard asked him whether, when he

went abroad, he had not made up his mind not to return so long as his father was living; and his answer was that that was so; that his home was an unhappy one, had been an unhappy one to him, and that he did not intend to return so long as his father was living. He says, "I had made up my mind that I would not return to England during my father's lifetime." It is, however, at once obvious that, though such a resolution might afford an explanation of his remaining in Australia, it affords none of his not writing home for his own income of 1,000*l.* a year, and submitting to such a life as the defendant admits himself to have led. But can we accept the fact? Had Roger Tichborne any such intention of not returning during his father's life? Had he made up his mind never to see his father again? to stay away even though he knew his father to be dying? We certainly find no manifestation of such an intention in the letters of Roger from South America. To Gosford he says he shall remain abroad "two or three years." In another letter he says he shall "not remain long in England so long as his father lives." He says, with reference to Moore, that on his return he shall only keep a small establishment, and therefore shall not want a butler. He wishes to have his name put up at the "Travellers," as he should like to be a member on his return. Nowhere is there the slightest intimation of an intention to stay away permanently, or till his father's death. And there is this further inconsistency. If there was an intention on the part of Roger not to return till the father's death, how is it that during the long period of twelve years no inquiry should have been made by the defendant (if Roger) whether his father was still living? Sir James Tichborne at the time Roger went on board the 'Bella,' was already in his seventieth year. "The years of man are threescore years and ten, and one in a hundred liveth to fourscore"; and here and there, persons of vigorous constitution and health live even to a more advanced age. But Sir James Tichborne was not destined to be the exceptional "one in a hundred." He lived, however, to a good old age. He died on the 11th of June, 1862—about the time when the defendant was riding the mail between Borce and Narandra—being then within three months of seventy-eight years of age. It follows that while the defendant was riding the mail, a dangerous and laborious occupation in a wild country, exposed to the elements and to bushrangers, and while, for three or four years, he was following the calling of a butcher's man at Wagga-Wagga, he was, if Roger Tichborne, actually a baronet, and entitled to an estate of twenty thousand a year. Now, what son, who knew that a title and a large fortune awaited him, as the alternative of exile and penury, on the death of a father far advanced in life, more especially if he had so little affection for the father as never to wish or intend to see him more, would thus allow years to pass without troubling him-

self as to his father's existence? Can we conceive it possible that the defendant, if Roger Tichborne, would have taken no steps, during twelve years of such a life, to ascertain whether his father was still alive or dead? A further difficulty arises from the position of the brother Alfred. The moment the father died, it being taken for granted that Roger was dead, Alfred would of course assume the title, and succeed to the Tichborne estate, and receive his annuity under Roger's will. Having grown up to man's estate, he would doubtless marry, probably some lady of social position equal to his own, and in all likelihood have children. All would be placed in a most painfully false position, if obliged by Roger's afterwards coming forward to withdraw from the position they had assumed as to title and estates. It would have been impossible that this should not have occurred to a man of business like Roger, and his affection for his brother, which plainly appears from his letters, would have prevented his exposing him and his family to so humiliating a fall. It is true it has been put forward on the part of the defendant that he had abandoned all idea of coming forward till he heard of his brother's death. But we shall see hereafter that this is but a pretence. Nor would it affect the argument as regards Alfred's wife and family. To them his coming forward at any time would, of course, be fatal.

The defendant's explanations as to the motives of his leading for so many years a life so inconsistent with what might have been expected from Roger Tichborne, being so far unsatisfactory, his learned counsel thought it necessary to propound certain explanations of his own, which, however, have the disadvantage of never having occurred to the mind of the defendant himself, and of bearing unmistakably the stamp of the learned counsel's own coinage.

He first sought to explain the defendant's conduct on the score of eccentricity. He pointed out that there were instances in which men have done the like. Look, he says, at Bamfylde Moore Carew. He was a gentleman of large estate in Devonshire, and he gave up his fortune, he abandoned his home, and went and lived with the gipsies, preferring their erratic life to all the luxuries of a great house and a great fortune. Again, we have a recent instance of a nobleman who chose to be a common sailor, and, as a sailor, perished. It may not be impossible in the history of human conduct to find here and there similar instances of eccentricity. But then it so happens that of the individuals who thus acted, contrary to our experience of the motives which usually actuate and influence the conduct of mankind, we know nothing else. What I should infer is, that Bamfylde Moore Carew must have been a man who was what is called "cracked." If Bamfylde Moore Carew had made a will making over his property to the gipsies, I for one should have been

strongly in favour of upsetting the will. What the state of mind of the nobleman who has been referred to was I cannot tell you. All I can say is, these cases are exceptions to the universal influence of motives which are otherwise known to control and determine human conduct. Therefore, while I should be very far from saying that you should assume that a course of conduct like the one to which I have been referring is morally impossible, what I do say is this—that you should accept it with very strong distrust, and the more so because there is nothing in the antecedents of Roger Tichborne which would lead us to suppose that Roger Tichborne would have acted in this extraordinary manner. If there was anything for which he was remarkable (and it was with a view to this that I directed your attention to parts of the correspondence and to many passages in particular letters)—if there was one thing for which Roger Tichborne was more remarkable than another it was for the eye he constantly kept on his worldly and pecuniary interest. Even in the most minute things, things that are generally disregarded with reference to self-interest, Roger Tichborne's mind, far from being indifferent to matters of pecuniary interest, had exactly the opposite tendency; and we have, therefore, the greater difficulty in coming to the conclusion that he gave up and was content to forego all the advantages which fortune had provided for him. Of this, however, it is entirely for you to judge. I do not say (I repeat) that these are things which it was impossible for Roger Tichborne to have done; but this I do say, that when you come by-and-by, holding the scales evenly, to put on the one side and on the other the facts which tend to establish the affirmative of identity, or to negative it, the serious improbability which attaches to this part of the story, independently of all contradiction, must necessarily be put into that side of the scale which is adverse to the defendant. If, indeed, all the other circumstances of the case should tend irresistibly to the conclusion that he is Roger Tichborne, then all we can say is that this must be a case of eccentricity, as his learned counsel has asserted. But, in a case of conflicting evidence, the strange apparent anomaly of such a state of things must certainly be taken to militate strongly against the defendant.

And when the learned counsel tells us that we are to ascribe this strange conduct to eccentricity, I wish to know on what fact of Roger Tichborne's life he can put his finger and say that it shows eccentricity. If ever there was an instance of reasoning in a vicious circle, it seems to me the learned counsel here affords one. Seeking to account for this strange conduct by eccentricity, but being unable to show that Roger Tichborne was eccentric, he begins by inferring eccentricity from the conduct, after which he proceeds to explain the conduct by eccentricity, reasoning thus in a perfect circle, in which

he may revolve perpetually without ever coming to a satisfactory conclusion.

He suggests various ways in which he proposes to account for the apparent anomaly in the conduct of the defendant. Some of them are very strange ; very strange indeed. He begins by saying that Roger Tichborne used to have the history of St. Alexis repeated to him by the Père Lefevre. That history, he tells us, is a striking one. St. Alexis married a young and beautiful woman, and on the day of his marriage he disappeared, gave her the slip, and went off ; left the young and lovely bride to console herself as best she might ; went into a distant country, put on the garb of a beggar and begged at the door of a church. I must say I think it would have been better if he had stayed at home and comforted his bride, and performed his duties in that state of life to which it had pleased God to call him. After many years' begging at the door of the church, he came home. He performed menial services in his father's house, not letting anybody know who he was, till at length he was found dead in some out of the way place. This story having been repeated year after year by the Père Lefevre to Roger, when Roger went annually to pay his tribute of respect to his confessor on his saint's day, "Consider, gentlemen," says the learned counsel, "whether that may not have suggested to the mind of Roger, at a remote period it is true, to quit home, to leave fortune, and all the enjoyments of life, and hide himself away in the wilds of Australia." This, I must say, like something else I referred to yesterday, should be preserved as one of the curiosities of forensic oratory, but, of course, addressed to twelve sensible men like yourselves, it is like the idle wind which you will pay no regard to. But much reliance could not be placed on St. Alexis and Père Lefevre, because the defendant had no recollection of Père Lefevre ; did not even know his name ; and to suppose he had forgotten Père Lefevre, and yet could recollect the story of St. Alexis and go to the forest in consequence of it, was certainly somewhat strong. Accordingly you are told of other things which may have produced this erratic tendency in the mind of Roger.

I pass on to the next explanation. Says the learned counsel, when Roger Tichborne was at Stonyhurst they played a very wicked play, the "Castle of Andalusia," and in the Castle of Andalusia there was a naughty song, sung by a robber, in which he proclaims, in very laudatory terms, the happy life which a robber leads, who needs not to earn money himself, but can take it from other people, and who can also make free with other people's belongings in other ways to which I need not more particularly refer. That, says he, might have suggested to Roger Tichborne's mind that a bushranger's

life would be a pleasant one, and may serve to account for his going to the bush. But, unfortunately, the defendant had forgotten all about it, and did not even know he had acted in the play; and moreover the song had been expurgated from the play, and was not sung at Stonyhurst. Consequently that could not be relied on. Then a totally different explanation is offered. By his excesses Roger Tichborne had brought on disease; he was sick of the world; he had undermined his health, impaired his intellect, disordered his understanding. He knew he was weak in body and mind, and it occurred to him that in the desert he should find a renewal of health and strength and intellectual vigour; especially if he could fall in with some of the men of more active spirit who frequent those wild regions. Accordingly he makes up his mind that he will go to Australia and settle there. Besides which he was conscious of having committed a grievous sin against God and man, a sin against society for which he never could be sufficiently miserable. "I have seduced my young cousin, I never can get over it. I never can show my face if I go back to England; my relations will look upon me with aversion and scorn. Better go to Australia, and there, in lonely solitude and contemplation, meditate upon the past, and seek to make amends and atonement in the future." This was very edifying. We have here a man who is showing the first fruits of repentance by determining to withdraw himself from the wicked pleasures of this world, and in calm and divine meditation reflect on things holy. The misfortune is, Roger never meant to go to Australia at all. He took his passage for New York, after sending for another 1,000*l.*, with the intention of going to Mexico, and he desires to be put up for the Travellers' Club. That does not look like going to the forest as an anchorite and hermit, and reflecting on things holy instead of living a worldly life; still less do I see any indication of repentance in a man who says that all the time he was staying at Rio he was going through an unceasing career of the lowest and grossest debauchery, and was so drunk at last that he could scarcely be got on board ship. The carnival comes, as we know, before Lent; and here I suppose debauchery was to be the preparation for repentance. In spite of these considerations, this is what the learned Counsel ventures to suggest to you. When he is reminded that his client, whom he represents as thus sunk to the lowest degree of physical and moral and intellectual debasement, comes back to this country with a remarkable degree of intelligence, and an immense amount of physical strength and power, Ah! he says, "that was the effect of living in Australia; the pure air of the bush, and the active life he led in it, brought back an entire renewal of his health; and if you speak about his intellect and his morals, I will very easily explain to

you how there has been improvement and perfect restoration in that respect. Has he not been associating for months or years with Arthur Orton? It is true, Arthur Orton is a coarse, low brute—these are the learned counsel's own words—it is true he was a ruffian, it is true he was a robber, and it is very shrewdly suspected he was a murderer; but, then, you see, the two extremes of ruffianism and refinement being brought together—on the one hand, bodily vigour, health, and strength of mind combined—on the other enervation and prostration, the effect of dissipation and debauchery, destruction of the intellect, loss of the moral sense—out of the two extremes you get a perfect man; and so this association with Arthur Orton has produced the man whom I am proud to represent before you.” If this view of the matter could be true, I should only have to say I very deeply lament that we can no longer send the scum of our society to Australia. Even now, if there should be any great and particular reprobate with whom nothing can be done to win and recall him from his evil ways, I should strongly advise his being sent out there.

One sees frequently advertisements headed—“ To parents of incorrigible boys,” in which it is said that if you only send them to a certain place they will get rid of their evil ways; so if you have an incorrigible scoundrel send him to Australia and let him find Arthur Orton—that is if he can find Arthur Orton—and let him stay with him and see a little bushranging, and he will become a perfect character in an incredibly short space of time. In fact, one may say with King Henry—

“ Now, neighbour confines, purge you of your scum :
Have you a ruffian that will swear, drink, dance,
Revel the night ; rob, murder, and commit
The oldest sins the newest kind of ways?
Be happy, he will trouble you no more.”

Let him go to Australia, and under the pure air of the Australian heaven and the rough life of the Australian bush he will be thoroughly reclaimed and reformed.

There is one more argument the learned Counsel put before you, and as anything that comes from a learned queen's Counsel in an address in a case of this kind is deserving of attention, I will just note it. Having spoken of the remorseful and repentant Roger seeking the wilds of Australia as a place for improvement, the last of the learned counsel's suggestions is that, although he had intended to go to New York and had no idea of going to Australia, yet when he was picked up by the ‘ Osprey,’ and was three months on board that vessel, he found in her several passengers, and these passengers the Counsel assumed (of course you may assume anything in the flight of uncontrolled fancy) were persons who had led adventurous

lives, and who would naturally, in the course of their voyage, narrate their adventures. These adventures took firm hold of Roger and inspired him with a desire to lead an adventurous life, and so when he got to Melbourne, instead of writing home for resources, he determined to go and try his hand at adventures in the forests of Australia—the learned Counsel quite forgetting here, as in his former explanation, that according to the defendant's account the first thing he tried on landing was to get a passage for England, in which he failed—a proceeding altogether inconsistent with any supposed intention of remaining in Australia. However, he is said to have thus become inspired with the desire of leading an adventurous life in the bush. But what is there of adventure in being a herdsman and driving cattle from the run and slaughtering them? What is there of adventure in breaking horses and selling them? What is there of adventure in taking to the calm and peaceable occupation of a butcher?—none, as far as I can see; the whole thing is as devoid of romance or interest as anything one can well conceive.

Men may be led away to a wild life by a desire of adventure, or by some notion of romance or interest, or sentiment attaching to it. Men have gone with Indians on the war-path, and associated with them in their hunting expeditions. Men sated with the world, sick of its conventionalities, having carried the enjoyment of life perhaps to an excessive degree, have withdrawn from it to lead a life of seclusion. Men inspired by religious fervour have retired to lonely and devout meditation and rigorous self-denial, as saints and hermits have done of old. Men have turned misanthropes because their minds have been soured by disappointment, or by some perfidy or treachery of which they have been the victims: in all these circumstances there is something which accounts for the departure from the ordinary course of human action. But here there is nothing but what belongs to commonplace, vulgar, everyday life. No romance or interest or sentiment can connect itself with the occupation of a stockdriver, or a horse dealer, or a butcher, or any other trade or form of life in which the defendant says he was engaged. It seems to me therefore that no explanation has been put before us which is at all satisfactory, or which is sufficient to account, with men of ordinary sense and judgment, for conduct apparently so irreconcilable with what might have been expected from Roger Tichborne. Far be it from me to say, as I observed before, that if the other facts of the case should lead you to the conclusion that the defendant is Roger Tichborne, this should be considered as an insuperable difficulty; but that it is a difficulty of a very formidable character, and one which must not be overlooked, is what, I think, no reasonable or thinking man can fail to see.

This being so, seeing that the history begins with circumstances of difficulty, calculated, when addressed to us as reasonable men, not to command our confidence, but rather to excite our suspicion, it becomes necessary to look a good deal further, to enlarge the area of our observation, to take in new facts, and to look into the details of this history with a more critical eye and more scrupulous examination than we should otherwise have been disposed to do. It may be that truth is sometimes stranger than fiction, but that is no reason why—when a case is presented to us which at first sight, at all events, bears the appearance of fiction—we should too hastily and rashly assume, that because truth sometimes resembles fiction, in this instance that which looks like fiction should be taken for truth. I do not say it is fiction—that is a matter for you to judge of, and which you will be much better able to judge of when we shall have passed in review the whole of the evidence and all the additional facts established in the case.

ONE HUNDRED AND SEVENTY-THIRD DAY.

Wednesday, February 4, 1874.

The LORD CHIEF JUSTICE: Gentlemen, I was pointing out to you, yesterday, various difficulties which suggest themselves to a thoughtful mind on reflecting on the story of the defendant; and I observed that it will be necessary, in consequence of those difficulties, to enter more largely into all the facts of the case; and I propose in the first place to examine more critically and minutely, in addition to the general outline of his narrative, the details which he has himself, in his various examinations, given of the shipwreck, of his preservation from death, of his subsequent landing at Melbourne, and of his life in Australia. Now, no one belonging to the ‘Bella’ has ever been heard of besides the defendant, if, as he alleges, he is Roger Tichborne; and we can, therefore, look to no other source of information on the subject of how the ‘Bella’ came to founder, and how he himself came to be saved, than the narrative which he himself has given. He was, as I have pointed out to you, under the necessity of giving some account of these things, because when, after twelve years of absence and total silence, and the failure on the part of persons, whose honour and veracity no one doubted, to recognize him, he applied to the Court of Chancery for assistance to get over the legal difficulties which certain technicalities threw in his way, it was absolutely necessary that he should explain that which, looking to his position, rank, and fortune, to the relations previously subsisting between himself, his

family, and his friends, appeared so strange and incredible, namely, that through all these years he should never have given any signs of having been preserved from death, and of being still living. It was, therefore, necessary that he should make an affidavit, setting forth, with more or less minuteness, what had become of him in the meanwhile, and what he had been doing.

Now, in the 30th and 31st paragraphs of the affidavit, after having stated that he embarked at Rio, he says: "All went well until the fourth day after the 'Bella' had left Rio, and was far out of sight of land, but on the morning of that day, the mate reported to the captain that she had sprung a leak, and all hands were instantly set to work at the pumps, and every effort was made to save the ship, but without effect. Very shortly after the mate reported the leak it became apparent that the vessel was fast filling with water, and the captain announced that all further efforts to save the ship were useless, and that all on board must instantly take to the boats. The 'Bella' carried a long boat on deck, and two smaller boats, one of which was slung from the davits on each quarter. One of the small boats was stove in, and rendered useless, but the crew succeeded in safely lowering upon the sea the long boat, and the other boat, which was the larger of the two small ones, hereinafter referred to as 'the second boat,' and in stowing some provisions and casks of water into the boats. I, and to the best of my belief, eight of the crew got into the second boat, and the captain, and, to the best of my recollection and belief, the rest of the crew got into the long boat, and immediately pushed off from the 'Bella,' and the ship 'Bella' soon afterwards sunk." That is the account he gives in the first instance of the foundering of the 'Bella.' That did not go, nor was it necessary it should go, into any great detail; but those who were desirous of sifting this story, as interested in the maintenance of the right of the child who was believed up to that time to be the heir of the Tichborne title and estate, very properly, desired to know something more of the particulars; and accordingly they claimed the right, which they undoubtedly had, under the procedure of the Court of Chancery, to cross-examine the defendant on the affidavit he had so made; and one of the first subjects of inquiry to which Mr. Chapman Barber, who acted as counsel for the defendants in that suit, when the examination took place before Mr. Roupell, the examiner in Chancery, directed his cross-examination, was the shipwreck of the 'Bella.' Now, on that occasion, I am bound to say the defendant did not manifest the frankness and the straightforwardness one would have expected from a man who had nothing to conceal, and who was ready in the face of any court of law, or of the world, to state the circumstances which the parties interrogating him certainly had a right to expect he should state without reserve. This is what took place. Mr. Chapman

Barber asks: "Can you give a description of the shipwreck?—I will answer every question you put to me. Q. Can you give us a description of the shipwreck?—Yes, and I will answer every question you put to me,"—he says, a second time; then the examiner says, the question is "Can you give a description of the shipwreck?" The witness: "I hope the learned gentleman does not want me to make a speech, it is next door to it." Mr. CHAPMAN BARBER: "You see your affidavit contains a long statement connected with this shipwreck; can you repeat that in substance?—Most undoubtedly I can, but I tell you again, I will answer any question that you put to me. Well," says the learned counsel, "I ask you to be so good as to repeat the statement of the shipwreck.—It would be very amusing, I have no doubt, for you all, but I am not going to do it; I am here to answer any question you put to me. Q. You must do more than that.—Perhaps you would like me to commence from my sailing from England? Q. Not the least.—You may as well ask me the one as the other." Then Mr. Serjeant Ballantine interposes, and says: "I do not think that any counsel can tell a witness to give a description of a shipwreck. Mr. CHAPMAN BARBER: If he declines to do it, there is an end of it. Mr. Serjeant BALLANTINE: It must be understood that he does not decline to answer any questions in relation to the shipwreck." The witness is further pressed by Mr. Barber, and then he says:—"I cannot exactly tell you much about it, for I was never much upon deck till the time of the leak." Then Mr. Barber, supposing he had been sea-sick, asks, "Are you subject to sea-sickness?—Yes, sometimes. Q. Were you at that time?—No, I was not at that time. Q. What made you stay below all the time?—Because I was tipsy; now you have got the answer, you might just as well have asked it before. Q. Were you tipsy all the time, the four days?—I was, on and off; I was recovering; I was getting myself right. Q. Were you tipsy when you went on board?—Yes, I was. Q. Had you recovered when you discovered the leak?—That was the first morning I came upon deck." The same ground was taken by the defendant when he was examined on the trial; namely, that he was tipsy when he went on board, and remained in a state of drunkenness, or semi-drunkenness, the three nights he was on board, until the fourth morning, when he went on deck. That was the account of the shipwreck which he gave at first. On further examination, in the course of the interrogatory in the trial in the Court of Common Pleas, he was obliged to give more detailed particulars, and he did so; but he adheres throughout, as you will see presently, to the statement that he was in a state of intoxication when he went on board the 'Bella,' and during the whole time he was on board. Upon the question whether Roger Tichborne did go on board drunk there is a conflict of evidence. It would matter very little, indeed, to us in this inquiry whether Roger Tichborne was

sober when he went on board the 'Bella,' or whether he was drunk, except for this consideration and to this extent:—If it was clear that Roger went on board the 'Bella,' not in a state of inebriety, but sober, it would not only go very seriously to the defendant's credit that he should have made this statement, which turned out to be untrue; it would have a much wider significance than that; because if he was sober and going about as a man does on board ship, and was capable of using his senses of hearing and seeing, he would have known something about what was doing; and whatever was the accident, whether by collision or otherwise, by which the 'Bella' foundered, he would, of course, be in a position to explain to us how that came to pass, while it now remains a matter of speculation and surmise. But this difficulty is got rid of when he says, "I was so drunk at the time that I was not able to come on deck. I stayed down below, and it is not until the cause of the foundering of the vessel, whatever that may have been, had produced its effect that I was in possession of my faculties and senses, and knew anything of what was going on around;" so that here his being sober or drunk does make a material difference. If you came to the conclusion that Roger Tichborne was not in a state of intoxication and comparative insensibility up to the time the ship was on the point of going down, and that the statement of the defendant with reference to his having been in such a state is merely a pretence, of course it would have a very serious effect on the belief or disbelief which you might entertain of the whole account which he has given of the foundering of this vessel, in other words, of his having been on board this vessel and having been saved when the vessel went down, as she undoubtedly did. Therefore it is necessary, before we come to the foundering of the ship, to form a judgment as to whether the defendant was, at the time he was on board the 'Bella,' in the state and condition in which he has represented himself to have been. Now his account is, that while he was staying at Rio he had been living a life of the grossest possible debauchery, that he was anxious to leave to go to the north, and that he fell in with Captain Birkett, the master of the ship 'Bella,' which at that time was bound for Kingston, and onwards thence to New York. He says he made up his mind to go with this Captain Birkett; that he applied for a passport, but was unable to get it, because it required forty-eight hours' notice for a stranger to get a passport, and without a passport a stranger could not leave the port; that however the captain consented to detain the ship. He says he had recently drawn 200*l.* at Rio—a matter we can ascertain by looking at the account of Glyn's; that he paid the captain 30*l.* for his passage, and had about a sum of 20*l.* left as the residue of this sum of 200*l.* Then he says that, having been leading this riotous life, he had been

for two days before the 'Bella' sailed committing a debauch and could not be found; he was at one of the hotels, and was in such a state of drunkenness that he could not rouse himself to make his way to the ship, and they had to find him out and take him on board. Now, I am very anxious in all these matters where the defendant is brought into direct contradiction with witnesses, and either he or they must have made, and knowingly made, a statement directly contrary to the truth, as only fair to him, though it may be a little tiresome to you and to me, that you should hear what the defendant himself has said. In his examination in chief, and, therefore, in answer to questions put to him from his own instructions—he says, that while at Rio, he became acquainted with Captain Birkett, the captain of the ship 'Bella,' whom he met at his hotel. They got into conversation. He told the captain where he was going, and the captain told him he was going to New York, calling at Kingston by the way. "Did he tell you when he was going to sail?—Yes; he told me he was going to sail the next day. Q. Did you make up your mind to go with him or not?—Well, I made up my mind to go with him if I possibly could. Q. What steps did you take in order to go with him?—I applied for my passport. Q. Were you able to get it?—No, I did not get it. Q. How came that to pass?—Because you have to give forty-eight hours' notice before they will grant you a passport. Q. What happened upon that?—He detained the ship."—Rather a strong thing for a captain to do; but, according to the defendant, the captain did it.—Q. "Did you determine to go, or abandon your notion of going in that ship?—I determined to go." He is asked, Q. "How did you manage to get on board without a passport?—I was hidden away." Now, it strikes me there is a certain degree of inconsistency here. If, in order that he might have time to get his passport the captain detained the ship, which I presume the defendant must be taken to mean, why should he go on board without a passport, and in consequence of that be hidden? Then he is asked: "What condition were you in when you went on board?—I was the worse for liquor. Q. What had you been drinking while at Rio?—Caña. Q. What is caña?—It is a white spirit of wine—*aguardiente*. It is white whisky or white rum of some description." That, it is observed, is Spanish for "fire-water." Afterwards, when he comes to be re-examined, he is led into further detail, and now comes a very important part of this story. We have had Captain Oates before us, as you very well remember, and you have heard Captain Oates's story of the part he took as to the young man who wanted a passage to New York, in inducing the captain to take him, although he had not the present means of paying his passage. The defendant ignores altogether the existence of Captain Oates, and does not know anything about him. He is asked by the Solicitor-

General, "Before you went on board, did you come across a person of the name of Thomas Oates?—On board where? Q. Before you went on board the 'Bella'?—You are speaking now of Rio Janeiro. Q. I am speaking of Rio; that was the place the 'Bella' sailed from, was it not?—Yes. Q. Before you went on board did you come across a person of the name of Thomas Oates?—I did not, to my knowledge. Q. That you swear?—That I swear. Q. How do you mean to your knowledge?—Well, I have no knowledge or recollection of any such person. Q. Do you recollect going on board the 'Bella'? Did you see Mr. Oates about three days before the 'Bella' sailed? Do you recollect seeing him about three days before the 'Bella' sailed?—I cannot say whether I have seen him; he might have been at the hotel; I can safely say this, I did not know who he was? Q. Had you a passport?—I had not. Q. Did you go on board the 'Bella' without a passport the night before she sailed?—No, I did not."—You will remember Captain Oates's evidence, and the details he gave. The question was asked in anticipation of contradiction by Captain Oates—Q. "Did you leave Rio without a passport?—I did. Q. Was it the rule at Rio that no captain should take a passenger out of harbour without a passport?—It was. Q. Did you go on board about five o'clock in the afternoon the day before the 'Bella' sailed, and did you have tea and supper, or tea or supper, with the captain or Mr. Oates?—I did not. Q. And did he go away about nine o'clock?—He did not, because he was not there; at least he might have gone; I was not there. Q. You have no recollection?—I was not on board at all, not the night previous. Q. Had you a conversation with him and the captain as to your being without a passport?—How could I have a conversation with a man I did not know? I told you just now I did not know him." The question is repeated, and he says:—"I had no conversation with Mr. Oates at all. Q. With the captain in Mr. Oates's presence?—Spoke with the captain in Mr. Oates's presence? Are you speaking of the night previous? Q. I am speaking of the night before the 'Bella' sailed?—I had no conversation with the captain that night at all. Q. Did Mr. Oates come on board the 'Bella' the next morning early again?—As I do not know Mr. Oates, I do not see how I can answer that question. Q. You know who I mean by Mr. Oates?—I know who you mean. Q. You have read his evidence?—Certainly, and never read so many lies put together in my life before, I think. Q. You say you have never seen so many lies put together?—No, not in an affidavit. Not in an affidavit? I will not say about an affidavit, this is not an affidavit?—I thought you were reading his affidavit." Gentlemen, Captain Oates being about to leave England in the ship he then commanded, had been examined before a person appointed to take his examination,

and the defendant, very likely, not being a lawyer, considered that as an affidavit. *Q.* "Do you recollect, was Birkett the name of the captain of the 'Bella'?"—It was. *Q.* Do you remember Captain Birkett and Mr. Oates advising you to go down into the lazarette underneath the deck, as the 'Bella' was being towed out of the harbour?—I went down in the lazarette. *Q.* You did go down in the lazarette?—Yes. *Q.* Was the object of that to get you out of port without the cognizance of the Government officers because you had no passport?—It was. *Q.* Did Captain Birkett advise you to go there?—He did. *Q.* And you mean to swear that Mr. Oates was not there, and did not hear and join in that advice?—I mean to swear I did not know Mr. Oates at all. *Q.* Was there any man who did not belong to that ship, a captain of another ship, another man, whether his name was Oates, Smith, or Johnson, was there a captain of another ship in the harbour at Rio at that time, who was there?—No, there was not. *Q.* No one?—Yes, there were people there. *Q.* No one belonging to a ship of that description?—No. *Q.* Did you go to the lazarette?—I did: I imagine, from what you allude to, it is the lazarette. *Q.* A room in the after part of the ship, kept apart from the cargo?—No, it was not; it was a room where the stores are kept. *Q.* Did the steward cover the entrance to the room with light packages, tea chests and the like?—I cannot say what he covered it with, I am sure. *Q.* Was it covered?—I believe it was blocked up. *Q.* Did Captain Birkett remain on the scuttle or trap-door, do you know?—Really I do not know. *Q.* Cannot you tell me?—Considering I was inside, how could I see who was outside?"—By no means a bad answer.—"I do not say you could see; you might hear or know, although you could not see?—I do not remember having heard it. *Q.* Do you know whether the cabin table was put over the scuttle?—What do you call the scuttle? *Q.* The trap-door.—It was not a trap-door at all. The door?—You could not put a cabin table over it." Here he admits having gone into the lazarette. An issue is raised between Captain Brown and Captain Oates, as to whether Roger Tichborne was put into the lazarette, a place down under the cabin, and which you got at by means of a hatch or trap in the deck, or whether he was put into one of the after-cabins on the same deck with the captain's cabin, which had been used at the moment for the purpose of a store-room. The defendant states that he remained in this place into which they had put him to avoid being seen by the local officers, the whole of the three days and three nights that he remained on board the vessel before she foundered. Now if he went down into the lazarette below, as Captain Oates has represented, which was a place without windows or light further than would be afforded by the opening of the trap-door, merely a place

for putting stores, he could not possibly have remained there with no place to lie down on, unless, indeed, he was in such a beastly state of intoxication that he would lie unconscious on the floor; but if he was put into a cabin, one of the passengers' cabins, though it was used for the moment, for the purpose of putting spare or extra stores, or any part of the cargo they had not room for elsewhere, there he would have a berth, with such light and ventilation as cabins have, and might remain for three days and three nights, although he might be in a state of intoxication, as there would be no absence of ventilation; but in the lazarette it would be simply impossible. Therefore if Roger Tichborne, for the purpose of secreting himself from the officers, was put in the lazarette down below, then he could not have remained there, but must have come on deck: and, if so, he must have been in a condition to know what was going on if any accident had happened to the vessel. Now on the re-examination of the defendant the statement about going into the lazarette is altered, and he no longer says that he went into the lazarette, but into one of the cabins which had been converted into a store-room. "You have mentioned"—asks his counsel—"there were some circumstances connected with your going on board; what part of the vessel did you go into?—You are speaking of the 'Bella'? Yes.—I went into the store-room. Q. Will you be kind enough to describe, as far as your recollection serves you, the store-room of the 'Bella'?—The store-room of the 'Bella' was a partition; she was a vessel fitted up to carry so many passengers, I should imagine, and these cabins not being wanted they were turned into a store-room. It was in one of the unoccupied cabins that had been turned into a store-room that I was. Q. Now, just assume that I know nothing about the vessel, and tell me what part of it it was—where were these cabins, fore or aft?—Aft. Q. I will not ask you what you mean, but tell me in what way it had been turned into a store-house?—Well, they were filled full of barrels and boxes of biscuits, and tea, and sugar, I should imagine: I do not, of course, know what the cargo was. Q. But there was a cargo stored there, was there?—Yes. Q. Was there any partition remaining, or was it all razed?—It appeared to me as if the partitions had been taken away some time; the fixtures of the cabin had been removed. It had all the appearance of cabins in the saloon part. Q. But the tables, you say, and any partitions there might have been were apparently removed?—I do not think there were any tables in it, but merely the berths. Q. There would be berths at the sides?—Yes." Then he is asked, "What was the mode of ventilation; was there a skylight, or what?—Yes, there were two skylights, I think. Q. What became of you when you took up your abode among the luggage?—I remained there until they told me to

come out. *Q.* Did you remain there until the vessel sailed?—Yes. *Q.* Then you were told you might come out?—Yes. *Q.* Did you go on deck or remain on deck?—No, I never went on deck until the morning she went down. *Q.* Had you at that time the habit of drinking?—I am sorry to say I had. *Q.* What used you to drink?—Well, I generally find—I believe this is a very sagacious answer—“I generally find it is always best to drink the spirit of the country, wherever you are. *Q.* Was that a habit of yours at that period to drink a good deal?—Well, I used to drink a good deal at that period—yes. *Q.* Now, when you embarked on board the ‘Bella’ in what state were you, as far as drink was concerned?—I had been drinking very heavily all the time I was in Rio. *Q.* What state were you in; had it any effect on you?—Yes, I was two days in the place, and they could not find me. *Q.* Where?—In an hotel there, and they could not find me. *Q.* Do you mean you were very intoxicated?—Yes. *Q.* When you got on board were you sober?—Yes; Mr. Thomas Holliscombe found me. *Q.* Was it known you were going on board the ‘Bella’ then?—Yes. *Q.* When you got on board the ‘Bella’ were you sober or drunk?—Well, I was about halfway, I think. *Q.* In an intermediate state, ‘halfway’ you call it: had you met with any accident previously; were you using a stick for any reason?—Yes, it was not an accident, it was rheumatism in the knee. *Q.* You had rheumatism in the knee, and were obliged to walk with a stick?—Yes. *Q.* How long had you done that before you embarked on the ‘Bella’?—Since I left Buenos Ayres. *Q.* How long was it, because I have not followed the days?—I left Buenos Ayres upon the 1st March, I think. *Q.* Were you lame, then, when you went on board the vessel?—Yes.”

Now, the statement thus made by the defendant was, as you know, entirely contradicted by Captain Oates, who stated that the young man, whose name he did not remember, had been introduced to him by Captain Birkett of the ‘Bella,’ who was a brother captain in the same service; that Captain Birkett told him this young man had run through his money, and was without means to pay his passage to New York, and also that he owed some money at Rio—whether a bill at his hotel or not I do not know—but that he owed money, and that being so, there would be a difficulty about his getting a passport and coming on board; and Captain Oates, who seemed a very good-natured man, said: “Oh! do not let the young fellow stay here; he seems of good family, and if, as he says, he is wealthy, he will pay you at New York, he will get a remittance there. Agree to take him, and we will get over the difficulty about the passport; we will put him in the lazarette, and conceal him during the time the officers are on board, and then you can take him to New York, and it will be all right; and even if it should not be,

I will make it right with the owners and bear you out." To this arrangement, he says, Captain Birkett agreed; they saw this young man daily while on shore at Rio, for two or three days before the 'Bella' sailed, and really took a liking to him; a thing not at all unlikely, because we have heard from everybody that whatever the real character of this man was, his manners were extremely amiable, gentle, and pleasant; and that he won his way with every one with whom he was brought into social contact. Captain Oates says that Captain Birkett having consented to this arrangement, Roger Tichborne went on board the evening before the ship was to sail; that he not only saw him on board, but they supped together on board; that he, Oates, went back to his own ship, leaving Roger to sleep on board the 'Bella,' one of the cabins for passengers being appropriated for his use. Then Captain Oates says, "that having promised to go and see his friend Captain Birkett in the morning and take leave of him, he went on board early in the morning and there found Roger. When the officers were coming on board to see that all was right, Roger was put into the lazarette and a grating was put over the trap-door of the lazarette, and a table over the grating. They had coffee on the table ready for the officers who came on board to examine the ship's papers and see that all was right before she left; and they took their coffee on this table which covered the aperture of the hatch which led down into the lazarette. Then the officers took to their boat; Oates shook hands with his brother captain, took leave of him, wished him a happy voyage, and went away in his own boat, in which he had come." We have here a direct contradiction of the defendant's statement. He says they put him into what he calls the lazarette or the after-cabin, being then drunk or half drunk. Captain Oates says Roger was not drunk, and that during the whole time he saw him at Rio he never saw him so, though Captain Hoskins does say that on the last day of Roger's stay he did appear as if he had taken too much.

But Captain Oates's evidence is met by that of a witness who certainly gives him about as flat a contradiction as can well be given—I mean Mr. James Brown, otherwise called Captain Brown. He tells a very different story. He says that he knew Roger Tichborne during the time he was at Rio, and that he knew him in company with Captain Birkett, and, what is more, with Captain Oates, morning, noon, and night—with Captain Oates, whom—strange to say—the defendant has declared that he never knew at Rio—that they were haunting the billiard rooms, which are to be found in the various hotels at Rio, playing until a late hour of the night; getting drunk night after night—on three occasions so drunk that he, the witness, had to accommodate Roger in a small room he occupied in one of the hotels, twelve feet by ten, and in which he says there were two

beds, one of which he gave to Roger, because he was so drunk he could not go back to his hotel. Brown goes on to say that, being the managing clerk to a ship's chandler at Rio, he had to go on board the 'Bella' on the morning she sailed, namely, the 20th of April, for the purpose of getting payment of a bill for brandy and spirits supplied to Captain Birkett by his employer, which Captain Birkett had promised to call the evening before and pay, which however he had forgotten to do; and, consequently, he, Brown, had to get up very early in the morning—five o'clock—to catch the ship before she sailed, in order to get payment. And he says, that having got to the ship, and being on board her, a boat came off from the shore, which contained Captain Oates, Captain Birkett, and another captain of a ship then lying in the harbour at Rio, called Hoskins, and Roger Tichborne, and that they were all in a state of total drunkenness: and that not only did these four come off from the shore at six o'clock in the morning, dead drunk, but everybody on board the ship was thoroughly drunk too; so that, as he says, it was no wonder that the ship was lost; it would have been wonderful if she had not been lost, if there was anything to place her in danger. He says that Roger was not put into the lazarette; that he was, as the defendant has stated, put into the after-cabin; and he goes on to say that he, the witness, prised an opening between the partition between the one cabin and the other; that he put Roger into the cabin, and then blocked up the place with tea chests and a variety of things which he piled up to the ceiling, so as to cover the door which led from the one cabin to the other, for the purpose of preventing the officers seeing that there was any opening through this partition into the after-cabin. The question suggests itself, for what purpose this could have been done. In the first place there was a door, and if the door could be concealed, it was just as easy to put the man they wanted to conceal through the door. Why then make an aperture through the partition, and why should Brown, a stranger, be called upon to do it?—He answers "that the carpenter was so drunk he could do nothing." In short they were all, according to his account, dead drunk. One is startled that, after this fortnight's intimacy at Rio, day after day, night after night, this drunken, this familiar intimacy, between Roger Tichborne and Captain Oates, the defendant does not know Captain Oates, and never heard of such a person! How is that? You will judge whether the defendant is right when he says he did not know Captain Oates, which is quite possible, or whether Captain Brown is telling you the truth when he details all these circumstances, which imply such an intimacy as two people living together and indulging in riotous debauchery together for a fortnight must necessarily have had. But do you believe Captain Brown? That is the question. He is met by the direct contradiction not

only of Captain Oates, but also of Captain Hoskins. Captain Hoskins, as fine an old seaman as you could wish to see, says he never had anything whatever to do with these riotous parties in which Captain Brown represents him as taking a leading part. He swears he never played at billiards the whole time he was at Rio, and that the whole story about these drinking bouts, and the gambling at billiards is, so far as he is concerned, an entire fabrication; and then, as regards his being seen on board the 'Bella,' as one of the drunken lot, he says, "I never went on board, I never left my ship that morning, I never went near the 'Bella,' and it is an utter falsehood as regards me." As I have observed, this contest is only important in this sense: unless the defendant did go on board the 'Bella' in this state of intoxication, and remain down below in this state, it certainly becomes very difficult to explain how it was that the 'Bella' actually got into the condition in which he represents her to have been without his knowing anything about how it happened.

Possibly it may occur to you to ask how, if the defendant had not been on board the 'Bella,' he should have known that Roger Tichborne was put into the lazarette to avoid the officers. But the answer is that in the interval between the examination of the defendant before Mr. Roupell and the trial, Captain Oates had been examined and had stated the fact, and his evidence had been read by the defendant as he himself admits.

Let us now come back to the condition in which he says the 'Bella' was found to be. He says, that on the morning of the fourth day, having recovered from the debauch of the preceding days, he went on deck, it being then about 10 o'clock; that he was leaning on the companion looking out upon the sea, when a sailor suddenly came up to the captain and told him that the vessel was so low in the water that she appeared to be in a sinking state; the captain, who had been walking the deck, and looking over the ship's side, though, according to the defendant's account, the vessel had twelve feet of water in the hold, and, therefore, must have been very low indeed in the water, and her deck almost flush with it—never having observed up to that time that the ship was in that state. The sailor comes up to him—on one occasion, I think the defendant said it was the mate, and on another a sailor (I do not attach much importance to any difference in that respect)—the man, whoever it was, came up and pointed this out to the captain; thereupon the captain ordered the well to be sounded, and it was found there were twelve feet of water in the well. Thereupon the captain ordered the pumps to be worked; the pumps were worked for five minutes; they did not gain on the water, but on the contrary, the water gained on the pumps. So the captain says, "It is of no use, she is going down, let us make preparations for saving our lives."

By the JURY: With twelve feet of water in the hold, would not the lazarette be full of water?

The LORD CHIEF JUSTICE: I should suppose all the lower part of the ship, cabin and all, would be so; at all events very deep in water. I think that part of the story must necessarily be abandoned practically. Let me proceed with the narrative. And it may here be convenient to observe that the narrative of the shipwreck divides itself into three things: the foundering of the 'Bella;' the taking to the boats; and, lastly, the rescue by the saving ship, whatever may have been the name and nationality of that vessel. Let us first stop to ask ourselves before we embark the people in the boats, whether this statement, as to the quantity of water in the hold, and as to the captain not having observed that the vessel was in that state—a state in which all attempts to reduce the body of water in the ship were ineffectual, can possibly be true. You have had nautical evidence before you on this subject, which there has been no attempt to meet by counter evidence on the part of the defence; and in that nautical evidence the witnesses are unanimous in saying that the ship could not have remained afloat with such a body of water in her hold, but must, long before that point had been reached, have become wholly unmanageable; must have been water-logged, to use the expression of one of the witnesses; in short, that the thing could not have been. Again, even supposing that from any accident the ship had made that quantity of water, it would have been perfectly impossible that it should have gained that head without having been long before discovered, inasmuch as, which is the point you were mentioning, not only the lazarette would have been full of water, and the defendant driven out of it long before, but the captain's cabin must have been full, and the greater part of the ship must have been so, while the ship herself must have been water-logged and unmanageable. That is the effect of the nautical evidence; but, again, from what cause could this have arisen? No cause has been suggested on the part of the defence which could account for so sudden an influx of water: no collision; no striking on any rock; no getting ashore, or on a sandbank out in the depths of the Atlantic 400 miles from land. Even if the defendant had been in the state he represents himself to have been, any collision either with another vessel, or with a rock, or with a sandbank—if sandbanks were to be found so far out in the ocean—could hardly have been unnoticed by him. If anything of that sort had happened, of course there must have been an alarm and excitement on board which would have aroused even the drunken man from his torpor. We hear of nothing of the kind. Says the counsel for the defence: "Does not it sometimes happen that vessels in harbour in hot climates, from the effects of the sun, have their seams more or less opened, and may not this vessel in this manner have

become leaky?" The owners are called: they say this was a new vessel, built only in 1851—this only her sixth voyage—carefully looked over before she left the port of Rio; painted from top to bottom, so that if there had been any cracks in her seams they must have been seen. But the learned counsel says that sometimes there is a corrosion of the iron bolts, and so the water gets in. Yes, but the answer is: "When they do corrode there are streaks on the ship's side; and an experienced captain who knows what he is about soon discovers that." But the ship left Rio four days before, so far as Captain Oates can give any information about it, in a state of perfect sea-worthiness; so that anything of a leak is not likely to have happened. Such, however, was the case first made for the defendant; and if it had rested there, I own I should have been very glad. But a witness was afterwards called for a totally different purpose, a gentleman who had been connected with this vessel, having been a managing clerk to a firm of merchants at Rio, who chartered the vessel and loaded her with a cargo of coffee and logwood and some other things which she had on board. He was asked whether he could throw any light at all on the cause of the 'Bella' foundering, and he stated that various rumours had been afloat as to how the vessel foundered, and theories had been propounded by persons conversant with nautical affairs as to whether the ship had gone down in a sudden squall, or had come into collision with some other vessel which ran her down, and, as sometimes happens, had passed on without taking further notice. On cross-examination he is asked this startling question: "Amongst the rumours, did you hear a rumour that she had been scuttled?—No." Well, I should have hoped that when he had answered directly in the negative the learned counsel would have been satisfied; but no, he goes on, and insists upon minute particulars as to what the cargo consisted of, and what it was insured for, with a view to leading you to believe that the vessel had been purposely sunk at sea by the captain, to enable the owners of the cargo, having over-insured it, to realize upon such over-insurance. The answer was an indignant denial of anything of the sort. The owners of the cargo being an English firm of sixty years' standing, such an imputation on their honour and integrity was perfectly atrocious when unsupported by a particle of proof. The same counsel who had endeavoured to show that the opening of the seams or the corrosion of the bolts might have occasioned the leakage and consequent disaster to this vessel—at the diabolical instigation of I know not whom—there is no milder term which in my opinion is applicable to it—suggested that the vessel was sunk by the captain purposely; that she was scuttled in order that she might go down and the insurance above the value of the cargo might be realized. I must say that a more hideous accusation, there not being the slightest shadow of pretence for it, I never heard. The witness explained to you what the cargo

consisted of, told you what it cost, and so showed you that it was by no means over-insured. Besides which, if the learned counsel had, in anything like a spirit of justice, before he raised that fearful accusation against these parties, paused for a moment, could he have supposed that a captain would sink his ship 400 miles from shore, with very little chance of the frail boat in which he would have to embark to try to save his life reaching shore, and with the prospect, in all human probability, of perishing before he could reach the land? At all events, do you not think he would at least have taken care to provide that boat with mast and sail, in order that he might not depend for his life on the power of the few men by whom the boat was manned to row her that distance? I do hope this charge did not come from the defendant, and I do not desire to intimate any belief that it did come from the defendant. I do not know where it came from, but I say a more infamous charge never was preferred in a court of justice; infamous because it involves the most heinous guilt on the part of those against whom it was directed, and because it was made without the slightest shadow of foundation, and moreover was inconsistent with the course the defence had taken up to that moment.

But setting aside the cause of the 'Bella's' making all this quantity of water, and having twelve feet of water in the hold, one thing is perfectly clear on all the nautical evidence, namely, that if such had been the fact, it would have been perfectly impossible that such a state of things could exist without its having been observed long before. All vessels are regularly sounded and the pumps used, if necessary, at fixed intervals; and the owners of this vessel, whom we have had before us, tell us that Captain Birkett was an old and experienced officer who had their entire confidence, and not the drunken vagabond that Mr. Brown has represented; that the discipline on board their vessels was exact and regular; and that it was one of the rules which their captains regularly followed, and which every prudent captain would of course follow, to have the well sounded night and morning. The last thing at night the carpenter would sound the well, and the same thing in the morning, and report to the officer on deck, captain or mate, as the case might be, what the state of the well was. Now, if this well had been sounded, as we must presume it was on the morning in question, it would have been impossible, if the ship had leaked from any of the causes suggested, other than from being purposely scuttled, that there could be that quantity of water in the well at ten o'clock that morning without there having been an unusual quantity when the well was sounded in the usual course, which would have led to some further inquiry, and the discovery that she was making more water than was consistent with the safety of the ship. Then we have this further fact, that the captain was up and on deck, and it was an absolute impossibility that an experienced captain should have been on the deck when the vessel

had twelve feet of water in the hold, without being aware that she was much deeper in the water than according to her draught she ought to be. Yet this Captain Birkett is supposed to have been walking his deck in perfect unconsciousness of the impending danger of the ship going down, and quite unaware of the condition in which she was. It seems impossible to suppose that such a state of things could have existed; indeed, practically this part of the defendant's account was given up by his counsel. Even Luie would not accept it. He said that the defendant told him that story, but he did not believe it; that he knew better; that the thing could not be; and he went on to say that a different account had been given by the crew, who had explained to him how the vessel came to go down, which of course we could not receive here as evidence; he discarded altogether and pooh-poohed the account which the defendant had given of the vessel having all this water in her hold.

The next part of the defendant's story relates to the taking to the boats, and now I must ask your attention to his affidavit and cross-examination in the Court of Chancery, in the first place, as contrasted with his subsequent examination in the Court of Common Pleas. This is his statement in the affidavit as to the boats: "The 'Bella' carried a long boat on deck and two smaller boats, one of which was slung from the davits on each quarter. One of the small boats was stove in and rendered useless, but the crew succeeded in safely lowering upon the sea the long boat and the other boat, which was the larger of the two small ones, hereinafter referred to as 'the second boat,' and in stowing some provisions and casks of water into the boats"—you will observe that he here speaks of "the boats" in the plural number—"I, and, to the best of my belief, eight of the crew got into the second boat, and the captain, and, to the best of my recollection and belief, the rest of the crew got into the long boat and immediately pushed off from the 'Bella,' and the ship 'Bella' soon afterwards sunk. The captain, who had in the long boat the ship's charts, ordered that the second boat should keep in sight of the long boat, which she did for two days, but in the night of the second day a high wind and storm came on, and the boats were soon out of sight of each other, and the long boat was not again seen by those in the second boat. The man who had the command of the second boat then determined to let her drift with the wind. On the morning of the fourth day after the 'Bella' had sunk, the crew of the second boat descried a ship in the distance, and used every means to reach her and to attract notice, and for that purpose a red flannel shirt, which one of the crew of that boat wore, was attached to an oar and hoisted as a signal. Ultimately a signal was made in reply, and the crew of the boat rowed to the ship, and I and the whole of the crew on board the second boat were thus saved after we had been three days and nights in an open boat." The statement in this affidavit is the first which he made publicly on this

subject. No distinction whatever is here made between the two boats in respect of provisions and water. Provisions and water are represented as having been put into "the boats" without distinction. Nor in that affidavit is there any statement as to his having been insensible or delirious, or even drunk. It was not absolutely necessary that there should be, and therefore, perhaps, no strong observation arises upon that.

Next comes his examination before Mr. Roupell. Mr. Chapman Barber asks: "You said one of the boats was destroyed: which of the two was it?—Well, if you tell me the particular names of the three, I will tell you. Which side of the vessel?—On the left-hand side." Then he is asked, "Do you remember what provisions were placed in the boats?—Yes, there were some bags of biscuits and some barrels of biscuits, and some water, and some preserved provisions. Anything else?—Water." So that you see, here again, no distinction is made between the long boat and the other boat. What provisions were placed in the boats, is the question, and the answer is, not that the provisions and water were put into the long boat, and nothing in the second boat, but the answer is given, as the question was put, with reference to boats in the plural, which would mean, of course, both boats. His answer is, biscuits, water, and preserved provisions were put into "the boats." So that up to this time no distinction had been taken by him, no difference made between the two boats; but at a later period, when he came to give the account before the Court of Common Pleas, he alters that statement, and states that the provisions and water were placed in the long boat, while the other boat was left without anything at all, except a few biscuits which became soaked and damaged by the sea water. Why he changed that statement, I do not know; whether it was to intensify the sufferings which he represented himself as having undergone, in order to explain the state of insensibility in which he represents himself to have been on board the ship which saved him, I do not know; but it is the fact that, having in his affidavit, and in his examination before Mr. Roupell, made no distinction between the two boats, when he comes, four years afterwards, to be examined in the Court of Common Pleas, he makes that distinction, which is really one of the most striking and prominent features in the whole of his narrative. Mr. Giffard asks him in examination in chief: "How many boats had the vessel got?—There were three. Q. Were they all three in good condition?—No, one was not. Q. What was the matter with that one?—She had got a hole in her. Q. What were the other two boats, I mean in respect of size?—One was a large one, the other was a small one. Q. What was done?—The captain ordered the boats to be prepared. Were they prepared?—Yes. Q. What do you mean by prepared?

what was done with them?—All things that were in her were thrown out; there was a lot of things in the boat, I do not know what, all thrown out on the deck. Q. What was done with the boat after the things were thrown out of it?—There was water and provisions put in. Q. I do not know whether you said ‘them’ or ‘it’?—No, it was only in one boat. Q. Which one was that?—The largest.” Then he goes on to say that the captain with the charts, compasses, and ship’s papers, got into the larger boat, directing the mate to take charge of the smaller one. “No,” says the mate, “I shall do no such thing.” The mate saw that the compasses, provisions, and all that might be useful for the preservation of the boat, and those in it, were going into the larger boat, and, therefore, he declined, according to the defendant’s account, to get into the smaller boat, and insisted upon getting into the larger one. The defendant is asked, “Did you hear anything said between the captain and the mate?—Yes, there were a few words. Q. What do you mean by ‘a few words’? do you mean a quarrel, or what?—Yes, it was a kind of quarrel. Q. What was it about?—The captain wished the mate to take charge of the other boat. Q. Of the smaller boat?—Of the smaller boat. Q. What said the mate to that?—He would not do so. Q. What happened?—He went into the same boat as the captain. Q. You say eight of the crew were in the smaller boat?—Yes.” Then he says he himself took to the smaller boat, with no one in command, there being eight men besides himself, while he says six or seven got into the larger boat, the number being smaller than were taken in the lesser boat, because of the larger being loaded, as he says, with water and provisions, and one thing and another. He states positively that they had no water in the smaller boat, and no provisions beyond a few biscuits, which one of the sailors had thrown into the boat, and which had become damaged by sea-water. Then Mr. Giffard asks him: “Did you continue to follow the large boat?—Yes. Q. For how long?—We followed the boat all that day, and all the next night and following day. Q. How came your boat not to follow any more?—We followed the next day and part of the next night, when it came on very rough, and the night very dark, and—The LORD CHIEF JUSTICE: I am sorry to say I cannot hear a word.—We followed her until part of the second night, when it came on very dark, and we lost sight of her. Mr. GIFFARD: The next morning, was the other boat, the large boat, in sight?—No. Q. How had you been supplied with food and drink during the day and the night, and the next day you kept together?—We used to go up to the other boat night and morning. The LORD CHIEF JUSTICE: For food?—For food and water.” Then he says, the only supply of food they had after the other boat was lost sight of was, in the ensuing twenty-four hours, the soaked biscuits. Water they had none.

Now here a most formidable difficulty presents itself. The two boats are represented as rowing away from the wreck for two days and nights, we must presume in the direction of the land. But the long boat was found, as we know, bottom upwards, with articles of wreck floating in its immediate vicinity. As these articles must have remained more or less stationary, so too must the long boat, or it would not have been near them. The probability, therefore, is that this boat, which was on the ship's deck, was set loose and turned over when the ship went down, and that the articles which had been stowed in it to make room for cargo—a witness speaks to having seen a chest of drawers in the boat when the ship was leaving Rio—were turned out of it and remained floating near it. At all events, the fact of the boat and these articles being found near together seems irreconcilable with the defendant's story. Besides which there are other improbabilities in it, which render it incredible. In the first place was such a thing ever heard of as that, a vessel being in such a state that she is about to go down, so that the captain and crew have to betake themselves to the boats,—all the food, and all the water, things absolutely essential to life, should be put into one boat, and those in the second boat be left without provisions or water, and be under the necessity of making up to the other boat, the one that had all the provisions and water, night and morning, in order to obtain the means of life? Surely such a thing never was heard of, and would not have been tolerated if the crew had been divided into two boats. If those going in the smaller boat had found that all the water and provisions were going to be put in the large boat, they would of course have rebelled, and insisted upon having their share. It could not have been otherwise. Indeed, that part of the story is so incredible, that it had to be abandoned. The learned counsel for the defendant said he could not ask you to believe such a story. With regard to the whole of this narrative, namely, the ship having twelve feet of water in her hold, unobserved by the captain, and the putting all the provisions and water into the one boat, leaving the other destitute, he admits he cannot ask you to believe the narrative, and puts it strongly that the very fact of the defendant having given this account shows that he cannot be Arthur Orton, because Arthur Orton was a sailor, and no sailor would have dreamt of telling a story which a sailor must have known would be incredible, and carry the evidence of falsehood with it.—“If he were Arthur Orton,” says the counsel, “he would not have invented that story.” Well, that assumes what may be very questionable, which is, that Arthur Orton was what may be properly called a sailor, although he had made three voyages, in some capacity, on board ship. But supposing for a moment that Arthur Orton would not have told this story to a fellow-sailor, does it follow that Arthur

Orton would not have told it to landmen? You know sailors say, when they hear something which is altogether incredible, and something which they cannot swallow, "Tell that to the Marines." So a sailor may think that a landsman may possibly believe what a sailor would not. But let us put Arthur Orton on one side for the moment: the learned counsel seems to have forgotten that he has to maintain two propositions; not only that the defendant is not Arthur Orton, but also that he is Roger Tichborne. And assuming the story to be so unlikely a one for a sailor to have invented, that you cannot suppose Arthur Orton would have invented it, the question remains, why should Roger Tichborne have invented it? Supposing that Roger Tichborne was on board the 'Bella,' and that when she foundered and went down, he had, with the rest, taken to the boats, or one of them, for the purpose of saving his life, why should he not have narrated the circumstances according as they happened, according to the truth, not having any object in telling a false story or any possible object in deceiving any one? If the facts never happened as the defendant has stated them, why should Roger Tichborne have invented those facts and so represented them, knowing them to be false, when he must have known the true facts, and therefore might have told them to us? This again will become a matter, I cannot help thinking, of very serious moment when you come by-and-by to weigh the evidence for and against the identity of the defendant. Being called upon, as he very properly was called upon, to give an account of how this vessel had perished—no one on board of her having from that time to the time he came forward, a period of twelve years, been heard of—being called upon to explain the otherwise mysterious question of how he came to be saved, you would have expected, I should suppose, from the man who had been thus involved in shipwreck from the foundering of the vessel and saved by taking to the boats, from one of which he was afterwards picked up by a ship, a simple narrative of the facts, which, instead of being involved in falsehood and improbability, should carry upon it the stamp of sincerity and truth. It is impossible, I think, not to feel the force of this reasoning, which at once suggests itself to one's mind, and presses upon one with very great weight and cogency. This was a matter unknown to the rest of the world, because apparently everybody else has perished. Who could give us an account? The defendant, if Roger Tichborne, could alone tell us what were the circumstances under which that vessel went down in the open sea, could alone tell us the circumstances under which he was saved from the destruction one would naturally suppose must have followed upon the disaster. He tells us a story which in its outline and in its details is altogether devoid of credibility and of every appearance of truth. So bad is it, that his own counsel can make no excuse for it

except this, that his client's brain has suffered so much from that which he has undergone, that truth and fiction have become blended in one inextricable maze, and that it is just as likely that he will tell you something which is the creation of his own brain as tell you the truth, and give you the facts, which anybody else whose brain had not become disordered must necessarily have remembered. We shall have to consider that theory with reference to a good many of the points upon which the defendant and the facts appear to be at issue. A fair argument on the part of the learned counsel, if upon the whole you should be of opinion that there is any foundation for it, as an explanation which solves difficulties which are otherwise apparently incapable of solution.

I now come to the third head, the part relating to the saving ship. You have heard the account which the defendant gives of the way in which he was picked up. They see a ship in the distance; they endeavour to row up to it; their efforts were, three or four times over, baffled; the morning was calm; at times there was no wind, and on those occasions they hoped to get up with the ship, and did their best to do it; but each time they came near her, a breeze of wind sprung up, and she gained upon them. At last they were in despair, but it occurred to one of the sailors to take off a red shirt he was wearing, and to hoist it on the top of one of the oars. This was seen by the ship, she put about, and on the next tack she picked them up. Says the defendant, "At that time I was insensible. I had been baling out the water from the boat with one of the tin cans, but when the vessel actually reached us and picked us up, I had become insensible, and in that condition was taken on board." The vessel was bound to Melbourne, and of course the defendant and that part of the crew which had been in the boat with him, being taken into the vessel, were conveyed to Melbourne. Now we know that the 'Bella' left Rio on the 20th April, and she would be somewhere about the place where the wreck was afterwards found in the course of three or four days; I think it was on the fourth or fifth day after she left that the long boat and the articles of wreck were found by the two vessels, the schooner 'Kent,' and the other vessel which picked some of them up. Now, it would take upon the average a voyage of some three months from the spot where the wreck was found, and at which, or at all events, within some near approach to which, if picked up at all, the boat's crew would have been picked up, to get to Melbourne, and the defendant tells us the ship arrived at Melbourne on or about the 24th of the ensuing July. It would thus be just three months that he was on board this vessel. He is naturally asked, "What ship was this? give us some particulars about her, because by that means we can test the truth of

your story. If we know the name of the ship, if we know the port she hailed from, if we know the names of her owners, the name of her captain, if we have these particulars, we can go at once to the fountain-head and ascertain the truth of your story. If those who had the navigation of that ship say they picked you up with part of the 'Bella's' crew, a great difficulty is got over." Says the defendant, "I am very sorry, but I cannot give you any positive information. My impression is that her name was the 'Osprey,' but it is only an impression. What was the name of her captain?—My impression is that his name was Lewis Owen or Owen Lewis, but I am not sure. Can you give us the name of anybody else who sailed on board her—mate, steward, or anybody else?—No. That is all the information you can give us?—Yes." Well, of course, this information, such as it was, would have to be acted upon, and inquiries made; and supposing that there was any foundation for asserting that the name of the vessel was the 'Osprey,' of course it would occur to any one that there would be no difficulty whatever in ascertaining whether in the month of July, on or about the 24th, or in the course of the month of July, or even of August, any vessel of the name of the 'Osprey' had arrived in Hobson's Bay, which, as you know, is the port of Melbourne. The first thing to be done for this purpose, and which was done, was to make inquiries at Melbourne, to ascertain whether any such ship had arrived. The place to inquire was of course the Custom House. According to the regulations of that and every other port where Customs' duties are levied, a captain on arriving must report himself at the Custom House; in addition to which, in all ports there are officers whose business it is to protect the revenue, by looking out for ships that arrive, going on board of them, and seeing that the regulations of the port with reference to Customs' duties and other matters are properly observed. Inquiry was accordingly made at the Custom House at Melbourne, but no trace could be found of any vessel called the 'Osprey,' whether of British or foreign nationality, having entered the port of Melbourne at that time. Another inquiry also presented itself. Here was a crew of eight persons, besides a passenger, picked up at sea, and brought to Melbourne by a vessel arriving at that port. They would not be upon the crew list, because they formed no part of the crew—they were supernumeraries on the vessel from an accidental circumstance. It seems to be admitted on all hands, that in such circumstances it is the usual course for the captain, even if it be not his absolute duty to do so, to report, when he gets to the Custom House, the presence of persons who formed no part of his ordinary crew. Besides which, it appears that at that time the local authorities were very strict in preventing the introduction of convicts. The system of transportation having been stopped, the Australian colonies resisted the introduction

of persons whose conduct in this and other countries had made them persons of whom such countries would be glad to get rid, and every vessel coming into Melbourne was boarded by officers whose business it was to watch and see that no such persons were introduced. So that in addition to the supervision of the Customs upon the arrival of a vessel in the port, there was the supervision of the local police, who boarded every vessel that arrived. No trace is found of any such vessel as the 'Osprey,' or of any shipwrecked crew having come in at that time. We have had the evidence of a gentleman connected with the local press, and from his evidence I think there cannot be any doubt left in our minds, that except some extraordinary circumstance occurred on this occasion, we should have found the arrival of the 'Osprey,' particularly under such special circumstances of nautical interest, reported in the local papers. There is a paper published at Melbourne, of which we have heard before now, called the 'Argus,' and one of the specialties, if I may use the expression, of that paper is its extensive and accurate nautical information with regard to everything that relates to merchant ships arriving at or leaving the port. Mr. Cooper, who was called before you, and who was the nautical reporter for this paper, lived in a vessel in the bay; he had boats at his service, and boarded every vessel that came in; and as vessels are seen soon after they get round the Heads, which form the extreme ends of the bay, there is plenty of time to prepare to board them on their arrival. He produced the list of the arrivals, and it appears from it that during the month of July, with one exception, no ship named the 'Osprey' entered Hobson's Bay. The papers and lists of those dates were produced, and no ship of that name entered, with the exception of a small schooner built at Glasgow—a schooner of sixty-six tons, which went out to Melbourne, and was shortly afterwards bought there by a gentleman of the name of Russell. There had been another 'Osprey' there shortly before that time, a vessel which had gone out from Liverpool—a three-masted schooner—which became a coasting vessel, trading between Geelong and Adelaide, but which was wrecked in Loutit Bay on the 18th June, in this very year 1854; she, therefore, was entirely out of the question. There remained, therefore, so far as the Custom House records and the lists of the 'Argus' exhibited any names of vessels, only this sixty-six ton schooner which came from Glasgow, and arrived there on the 27th July, but which certainly, as we know from the evidence before us, picked up no crew, and brought no one into Melbourne. Therefore, as far as we can see our way from these sources of information, there was no vessel called the 'Osprey' which could have picked up a shipwrecked crew and brought it into Melbourne, and as the matter so stood, it seemed a very adverse state of things for the defendant's cause.

It is true the defendant does not profess to speak with certainty as

to the name of the saving ship. But this in itself presents a formidable difficulty. It is difficult to believe it possible that a man could have been saved by a vessel from death, and have been three months on board her, and not have ascertained where the vessel came from that had thus picked him up, who the owners were, who the captain was, what was his name—in short, all those particulars which it would naturally occur to a man under those circumstances to desire to know. For, who can doubt for a moment that those would be things which, if they did not at once become known from conversation with people in such a vessel, a man so circumstanced would desire to learn? No man who is saved from death by being picked up at sea could fail to ask what was the vessel to which he owed his safety; or when treated with kindness and humanity by the captain of the vessel, to ask to whom he was indebted for rescue from impending peril, and for kindness thus received. If he was during the time, as the defendant has represented himself, in a state of unconsciousness—in a state of delirium from past suffering—he would naturally, when he recovered, ask for information which, if he had not been ill, he would probably have obtained at once. As was pointed out yesterday, there was a time, during which it is impossible to suppose the defendant was not in full possession of his faculties, and might have asked for this information. He goes on shore with the captain twice. He seeks, as he tells us, to get a passage home; and you would suppose he would naturally ask, before he saw the captain for the last time, “Who are you? Whence do you come? I have not learnt who you are; I have not taken the name of your ship; let me know these things that, at all events upon some future occasion I may have the opportunity of showing my grateful sense of the inestimable kindness you have done me in saving me and bringing me here.” The defendant says he was deprived of the opportunity of doing this, because, having gone on shore on the second day, and having left the captain with the intention of seeing him again, and possibly of returning to the vessel if something should not be determined as to his future proceedings, he met with a man who offered him service in the interior of the country, and with whom he went to his hotel, and so lost sight of the captain. But here, again, is this, in itself, a probable story? Would not a man, who had received all this kindness—knowing the captain was on shore, and that he must return to his vessel from the same place at which he had landed, and that having come from his vessel in the steam-tug, he would have to go back by it—would he not have gone back to the place where he knew the captain must come at a given hour, when the steamer went back for the day, and have waited at the landing-place, and said, “Captain, I have come to say good-bye to you. I have had employment offered to me, and as I have no immediate means of returning to my

own country, I have accepted it, but I could not depart, or allow you to depart, without coming to thank you for the many things I have to thank you for, and ask you for your name and address, that I may be able some day to do what I ought as a man and a gentleman to do to compensate you for the kindness you have shown me." Instead of which, away he goes into the interior. Is that in itself a probable thing? or has it been resorted to as a means of accounting for the fact that he did not know the name of the vessel or the captain? Because, if the defendant had once admitted that he had gone to take leave of the captain, he would naturally have been asked, "Do you mean to say you went back to take final leave of the captain without taking care to ascertain the name of the ship, where it hailed from, and who he was, and what place he belonged to? If such an admission had been made, it would have been impossible to believe that his story was true. Be this, however, as it may, the only vessel the defendant has named being the 'Osprey,' inquiry was only made as to the 'Osprey,' and search having been made in those quarters in which the presence of the 'Osprey' at Melbourne at this time, especially if she had brought the shipwrecked people with her, must have been known, no trace of the 'Osprey' is to be found; therefore, says the prosecution, there can have been no 'Osprey.'

Such was the case presented on the part of the prosecution; but the defendant meets it by evidence, no doubt deserving of serious consideration. The purpose of it is to show that there was an 'Osprey' at Melbourne at this time. Well and good, say they on the other side, but you have to show us that that 'Osprey,' which you say was at Melbourne, brought in a shipwrecked crew, and it is impossible that a shipwrecked crew could have been brought into Melbourne without its being known at the Custom House, or by the persons whose business it was to ascertain the name of every person who came into the port, or by the nautical reporters for the newspapers, whose business it was to visit every ship, and get an account of any particulars of interest which might have happened to the vessel on the voyage, such as, for instance, would have been the picking up of a shipwrecked crew, and a young gentleman of distinction and birth amongst them. But, to this, again, it is answered that the reason it was not known was that, at that time, the port of Melbourne was in such a state of confusion owing to the presence of the gold fever, and the number of ships that were coming in every day, bringing multitudes of passengers, eager to rush to the gold fields, that in the confusion thus created, the staff of the local authorities, the Custom House and the police, was altogether inadequate to the pressure of the occasion; to establish which a very considerable body of evidence is brought forward. On the other hand, there is evidence on the part of the prosecution showing that though

the gold fever still continued at Melbourne in the middle of 1854, it had to a very considerable extent decreased, and that the regulations of the port might well be, and in point of fact were, enforced. Upon all these points there is a considerable conflict of evidence.

The first question to be considered is whether the defence has established to your satisfaction the presence of an 'Osprey' in the port at this time. What the consequences may be which will flow from that fact, if you are satisfied of it, is another question. First, was there at this time, besides the Glasgow 'Osprey' of sixty-six tons, to which I have referred, a vessel named the 'Osprey' in the port of Melbourne? The defence, as you see, no longer treats the name of the vessel as an impression, it assumes it as a fact. What the defendant represented as an impression is converted into a positive fact, now sought to be established by evidence. Our first inquiry must therefore be whether there was any vessel called the 'Osprey' at that time in the port of Melbourne. But we must look at the question with reference to another which is very essential to the inquiry; we must have an 'Osprey' which will adapt itself to the exigencies of the defendant's story. He says: "I arrived at Melbourne after a three months' voyage in the 'Osprey,' or the vessel I believe to have been the 'Osprey,' on the 24th of July, or within a day or two of it, one way or the other. I landed on the day after the arrival of that vessel. I returned on board the vessel, and next day landed a second time, and returned to her no more. When I landed I left all the men who had been rescued with me and brought with me to Melbourne, on board the vessel." Therefore we require an 'Osprey' which arrived somewhere about the 24th of July. I think it would be very hard indeed to tie the defendant down rigorously to the exact and precise day, because he has said the 24th of July, which would just come to three months from the date of the foundering of the 'Bella.' I do not think we are entitled to say, "If you cannot show that an 'Osprey' arrived exactly at that time we must assume that there was no 'Osprey.'" That would be too hard. But, on the other hand, we must consider, not the mere question of whether there may have happened to be at that time at Melbourne a vessel called the 'Osprey,' but whether there was a vessel called the 'Osprey,' which, making any reasonable allowance, arrived somewhere about the 24th of July, so as to quadrate with the statement of the defendant. You may, perhaps, be of opinion that the evidence establishes the fact that there was an 'Osprey.' But then: Did the 'Osprey,' which you may find to have been in Hobson's Bay at that time, arrive at that time, or was it a vessel which arrived before or after the time at which the defendant, if he was landed at Melbourne, having been picked up off the Brazilian coast, must have reached that place? Let us hear the witnesses.

Now, the evidence for the defendant, on this part of the case, is as follows: There is a man of the name of Nash, who states that he was at Melbourne in the month of July, 1854, and that he went on board a vessel called the ‘Osprey,’ a three-masted vessel. I asked him how she was rigged, and he said that originally she was barque-rigged, but had no yards on her foremast. He supposes they had been sent down for repairs or something. He says she was a round-sterned vessel, painted black, nearer 300 than 400 tons burthen. He says he was at Melbourne three weeks before he went on board her; that he thinks her cargo was still in her, but saw none; a circumstance which might be material, because, if her cargo was still in her, the probability would be that she had only recently come into port; and he infers that the cargo was in her from the position in which she was in the water, though he did not see it. He is not certain whether he saw her name on the quarter or the stern, but believes that she was a vessel from Baltimore; but he is sure that the name ‘Osprey’ was either on her quarter or stern. He is quite sure he saw it, though he is not sure where. This part of his evidence is material with reference to the nationality of the vessel. He first said he thought he saw the word ‘Baltimore’ somewhere on the vessel. Afterwards he swore he saw it. He is asked: “Tell me what you say you read written or painted on her?—I read ‘Baltimore.’ That you swear?—Yes. The LORD CHIEF JUSTICE: I thought you said a moment ago you ‘thought’ it was ‘Baltimore’—No, my Lord, I am sure I saw the word ‘Baltimore.’” It turned out that I was correct, because my Brother Lush reads from his note, “Yes, I think I saw ‘Baltimore.’” “Now you say you are certain?—Yes, I am almost positive that I did see it. Mr. HAWKINS: Was that all?—And the ‘Osprey’; but I am not sure where I saw it. The LORD CHIEF JUSTICE: Where did you see the word ‘Baltimore’?—On her stern. Mr. HAWKINS: That you do remember, do you?—I am almost positive of it. Q. Was anything else on her stern except ‘Baltimore’?—I am not sure, I could not say. Q. Have you any recollection of seeing ‘Baltimore’? You must surely be able to give some better description of it?—It would depend on my position going on board. I might see the word ‘Baltimore’ and not see the other name. Q. Did you see ‘Baltimore’ and not the other name?—I am not sure. The LORD CHIEF JUSTICE: You are not sure you saw the name where ‘Baltimore’ was?—I am not positive, my Lord; but I think it was on the stern.” Then there is a cross-examination as to the exact position, but the man sticks to it, that he saw the word ‘Baltimore.’ He is not sure whether it was on the quarter or stern, but still he says he saw the word ‘Baltimore.’ Q. “Do I understand you to say you have a recollection of seeing the name in one place on the vessel, and ‘Balti-

more' on another?—Yes, that is what I say; her name might have been on the quarter, and I believe it was, and also on the stern, 'Osprey of Baltimore,' and my position coming on board would hinder my seeing one portion of the name, and I might only see the other." Now the importance of this is, that we have evidence from America as to the vessels named 'Osprey,' which were at that time in the American Mercantile Marine, and there is very strong evidence, which I shall come to, to show that there was no 'Osprey' belonging to Baltimore at that time. The man's own account of how he went on board is strange. He had nothing to do with vessels at that time, he had been to the diggings where he had picked up some gold, and his statement is that having come to Melbourne to enjoy himself, and spend his money, and hearing that there was an American vessel in the port, for no other reason than that he had formerly been in the American Mercantile Marine, he and two friends of his started from Melbourne, and came down to Hobson's Bay for no other purpose than that of going on board this American vessel. He found no one on board, he says, but the ship-keeper. He never went in search of any other American vessel but this one; he came down with these two friends, and went on board and looked round the vessel and left again, and went back to Melbourne.

The next witness is a man of the name of Goodyear, now a publican at West Cowes. His account is that, being at Melbourne all 1854, he was on one occasion on board a steam-tug which plied in the harbour of Hobson's Bay, called the 'Comet'; a vessel that used to go from the one side of the Bay, Sandridge, to the other side, Williamstown; and also made daily passages up the river Yarra-yarra to Melbourne and back again. He was going from Sandridge to Williamstown on either the 23rd or 24th of July, when the captain of this steam-tug, the 'Comet,' ran alongside a vessel, a three-masted schooner, and took some seven or eight men from the schooner, and landed them at Sandridge. He says that the name of this vessel was the 'Osprey,' and that these people who were thus landed, and who are presented to you as a shipwrecked crew who had been saved from this vessel the 'Bella,' were dressed in what might be called go-ashore clothes. They had blue jerseys and white trousers, and appeared to be in good condition; he says they had sailors' bags with them which appeared to be full. There was with them a landsman, dressed in a landsman's dress, who, of course, is presented to you as Roger Tichborne, the man who had been saved with the eight or ten men from the 'Bella.' The witness is asked what appearance this man presented. He says he was from 28 to 30 years of age; he had not the appearance of having been ill nor did he appear worn out in any way. He saw this

landsman with seven or eight men taken from on board this 'Osprey' and landed at Sandridge. It may be said this is the very ship that is wanted; and certainly at first sight it is very like the thing: an 'Osprey,' with seven or eight men landing from her, with a landsman, a young man of 28 or 30. That looks very much as if it agreed with what is wanted. But there are, as you will see, serious difficulties about it. In the first place, the people who were saved from the 'Bella' had no clothes except what they stood up in, they had saved nothing. Here are men, dressed in holiday clothes, who have full bags. That could not well square with the men so saved; and then the landsman could not have been the defendant. For the defendant expressly tells us that he went on shore with the captain, leaving the seven or eight men behind on board the 'Osprey.' Therefore this stranger accompanying the crew, who is presented to you as the Sir Roger we are in search of, certainly will not do. Besides which, this man may be telling the truth that he did see people taken out of the 'Osprey' for aught I know; but his date is of the most unsatisfactory character, for he could not give any reason whatever for fixing the date at the time he does. He gives us the 24th of July as the date; the fact would just as well suit any other date. "How do you know it was on the 24th of July?—I cannot tell. Have you anything to fix it in your memory?—No. Why do you say that was the day?—Because I do say so." Now I must say a man must have a very remarkable memory indeed who can undertake to say after twenty years that he can recollect the particular day in the particular month in the particular year that such a thing happened; that he saw men taken out of a particular ship and taken on shore, having nothing to fix the date on his mind. So much for that.

The next witness is Mr. Russell. He is a very different sort of witness. Not only is he a man of perfect respectability, but he fixes the time by reference to a particular fact, and his evidence is, therefore, I think, much more weighty and cogent than that of the last witness. Mr. Russell is a merchant, who in 1854 was carrying on business in Sydney and had frequent occasion to go to Melbourne. He purchased the small 'Osprey.' He saw her advertised for sale and went to Melbourne to look at her. Having gone on board her and examined her with the view of buying her, he is told that there is, by an odd coincidence, another vessel called the 'Osprey' lying close by. Having been to see the one 'Osprey' with a view of buying it, although the other was much larger than he wanted, curiosity induced him to go and look at the second 'Osprey.' He describes her as a vessel of between 300 and 500 tons—he cannot fix it nearer—and as having a deck house between the foremast and the mainmast. She had, he thinks, a round stern; and then he states a fact

in respect of which he differs from every other witness who has been called—being asked as to her figure-head, he says: “I think she had a white figure-head, to the best of my recollection a white bird, representing the osprey—a sea fowl.” He agrees with the rest that she had three masts, and says she was what is called a three-masted schooner, and that she looked like a Baltimore clipper, and he describes her rig thus, that she had yards on the foremast, but none on her main or mizen mast—so that she would be in the strict sense of the term a three-masted schooner. Now that this gentleman did go on board this vessel one cannot help feeling is clear. First, he is a man of respectability, and carried the conviction of truth in the statements he made. But when was it? He is cross-examined as to whether it may not have been in May or June; but inasmuch as he says he went on board the small ‘Osprey’ it must have been later. For the small ‘Osprey’ did not arrive in Melbourne until the 27th of July; consequently, it must have been later than that date that he went on board this larger ‘Osprey.’ He says to the best of his recollection she had the name of ‘Osprey’ on her stern. He is not quite sure as to the position of the deck house: it may have been between the main and mizen mast. We have it therefore satisfactorily proved by this gentleman, who, as I said before, is a witness entitled to credit, that he did go on board a vessel called the ‘Osprey’ in the harbour at Hobson’s Bay; and I think the circumstance to which I have adverted respecting the date gives a degree of probability to his evidence which the evidence of some of the other witnesses does not carry with it. For I must say that much of this evidence staggers me very much—not that I assume that the witnesses do not intend to tell us the truth, but I am astonished at the prodigious power of memory in the persons to whose evidence I am calling your attention, and who, most of them, have not, like Mr. Russell, any particular circumstance to fix the date or the name of this vessel upon their memory. Mr. Russell says, I know it was the ‘Osprey’ for the reason that I went on board of her because that was her name; I had just inspected and made up my mind to buy the small ‘Osprey’; and it was only because I was told that there was a vessel lying close alongside which was also an ‘Osprey’ that I went on board; it excited my curiosity, and I thought I would go and have a look at her: it was a larger vessel than I wanted, but curiosity induced me to go on board. But when persons come and say that twenty years ago they were lying in such and such a ship in a large harbour like Hobson’s Bay, in which there were at this time upwards of two hundred vessels, and that they recollect after all those long years that there was a vessel upon whose quarter or stern they saw a particular name painted, and that they remember the precise date, I can only say I am sur-

prised at such a prodigious power of retention. I do not know whether it has ever happened to you to be on board a vessel lying in harbour, either a pleasure yacht, or business vessel, or a ship of war ; and that being surrounded by other vessels, either looking through your glass, or with the naked eye, you saw a vessel lying at a certain distance from you, which had such and such a name painted upon her quarter or stern, as the case may be—unless there was something to bring that vessel more closely into connection with yourself, did it make anything more than a mere passing impression ? If you go on board a vessel, because it is a friend's, or because you have business there, I can understand your recollecting it any length of time ; you may recollect the going on board that particular vessel, and under what circumstances ; but suppose that all that happens is that you see a vessel and chance to see her name, do you think that after several years you would recollect that the vessel was called this, that, or the other, or that she was a vessel of this or that particular character and description ? I do not mean to say that these witnesses do not believe what they are telling us ; it may be all perfectly true ; I will not judge of other people's memories by my own, but I am quite sure it is a thing I should not recollect. I make a distinction between other witnesses and Mr. Russell, because there is a particular circumstance which would impress a recollection of the ' Osprey ' on the mind of Mr. Russell. He is a witness whom I presume you will feel yourselves bound to believe, when he says he did go on board an ' Osprey ;' if so, there must have been an ' Osprey ' in the bay.

I pass next to a witness named Liardet, a respectable gentleman, no doubt. He had been clerk of the peace at a place in New South Wales ; he was clerk to the justices and commissioner of the crown lands in the district. He came to Melbourne, he tells us, in the month of July, 1854, and when he arrived he saw an ' Osprey ' there. He says that on the morning after his arrival he was out in a boat belonging to his brother-in-law, who was the principal emigration commissioner at Melbourne. Being out in his brother's boat, his attention was directed by some of the crew of the boat to a particular vessel, which turned out afterwards to be an ' Osprey.' The man who pointed out the ship made a statement to him, but this, of course, could not be received. He says she was a very fine looking craft. He told the men to pull round her, and he went on board, but only saw one or two people. " Did you ascertain her name ?—Yes. What was her name ?—They told me she was the ' Osprey.' " He thinks he saw the name painted on her. At all events they told him that was the name. Then he is stopped. Mr. Hawkins objects to his repeating what had been told to him, and it ends there. But he is again asked if he saw the name ; and he says, " I think I did : I think the name was painted on her stern." He had asked questions

on board, but we could not have that gone into, but he again says, "They told me, on board, her name was the 'Osprey,'" and, somehow or other, he was allowed to say, "They told me she came from South America." He is asked, "As well as you do remember, you saw the name 'Osprey' painted?—Yes, I think so." No doubt this gentleman did go on board some vessel—I have no doubt he intended to tell us the truth—and he was told she was an 'Osprey,' and came from South America; but when he fixes this as occurring in July, it turns out—and, therefore, his recollection cannot be implicitly trusted—that he is under a complete misapprehension; for it was not until the ensuing year that this gentleman can have been in Melbourne at all. For he fixes the date with reference to a particular circumstance: he says that he knows when it was, because it was contemporaneous with the departure of Sir Charles Fitzroy from Sydney, Sir Charles Fitzroy having been governor of that part of the colony. He tells us that Sir Charles Fitzroy, as one of the very last acts of his government, gave him a month's leave of absence from the public employment which he then held, and that he availed himself of that month's leave of absence to go to Melbourne, and that this was the time when he saw this vessel. Thus he fixes the date. "Sir Charles Fitzroy," he says, "left in July. He gave me leave of absence the last thing he did, and I left the port of Sydney, not in the same vessel in which Sir Charles Fitzroy was, but in a vessel which started a few hours afterwards." Now the date of Sir Charles Fitzroy leaving the colony is fixed with perfect precision. We had Mr. and Mrs. Marsh called as witnesses, who left Sydney for England in the same vessel with Sir Charles Fitzroy, Mr. Marsh coming over as a commissioner from Australia to the Paris Exhibition of 1855. And not only is the date fixed in that way, but Mrs. Marsh kept a diary, as everybody would be wise in doing, because no one can tell whether an event which they so record may or may not some day become of importance to themselves or to some one else; and she fixes the date that she and her husband came home with Sir Charles Fitzroy. She produced her diary, which showed that they left Sydney on January the 27th, 1855. Therefore, as the last act of Sir Charles Fitzroy before leaving the colony was to give Mr. Liardet his month's leave of absence, and in that month of leave Mr. Liardet came to Melbourne, leaving Sydney on the same day with Sir Charles Fitzroy, it is proved to demonstration that he could not have gone on board the 'Osprey' earlier than the 28th or 29th of January, 1855. I do not know how many days it is from Sydney to Melbourne, but he could not have been at Melbourne until the very end of January in that year. His statement, therefore, that he went on board the 'Osprey' in Hobson's Bay in July, 1854, proves to be entirely erroneous, and it shows us what a treacherous thing

memory is with respect to the date of transactions and events which have taken place at a distant period.

Then we have a person of the name of Lockhart, who was in Melbourne, in the service of persons of the name of Lumsdale and Lockhart, merchants and agents there in a large way, having as many as two hundred ships' names on their books, which they supplied with stores, and it was his business to board ships immediately on their arrival. He says that in July or August he was on board the steamer the 'Comet,' of which we have heard before, when his attention was directed by Captain Carder, the captain of the steam-tug, to some seafaring men or sailors in appearance, who were on board the 'Comet' at the time. He is asked if he had any conversation with them?—"I had with one who was a captain. Do you mean their captain, or simply a captain?—A captain." He says this captain pointed out the vessel to him, and made a statement— There he is stopped: "You must not tell us what he said." Then he describes what sort of a vessel she was. "She was square-rigged on either two or three masts, that is—" he is quite right as to this—"she was either a barque or a ship. She was at anchor." He says she had "an elliptic stern, something between a square and a circle." He is asked whether amongst these people who were on board the 'Comet,' the sailors he was talking to, there was any passenger, and he says there was. Then he says, "We were going from Williamstown,"—which, you know, is on the opposite side to Sandridge, where the other man landed his eight or nine men with blue jerseys and white trousers—"We were going from Williamstown to Melbourne." He is asked whether these sailors had any sea-boxes or chests with them, and he says, "I did not see any." Consequently, this must have been a different crew from those who were seen going ashore in the blue jerseys and white trousers. These were a totally distinct set of men. "Did these men go up with you from Williamstown to Melbourne?—Yes, to Melbourne, in the steamer, the 'Comet.' Mr. Justice LUSH: Did you take them on board the 'Osprey' at Williamstown?—They were on board before me; the first time I saw them was on board the steamer. Mr. Justice MELLOR: You got in at Williamstown?—At Williamstown. A JUROR: How were they dressed?—I do not know; as sailors generally are, rather of a nondescript. The LORD CHIEF JUSTICE: Were they all dressed alike?—Just dressed like sailors who were hard up; they were not dressed in fine go-ashore clothes. Mr. Justice MELLOR: They went to Melbourne?—They went to Melbourne." Then with regard to the one man whom he calls the captain, he is asked, "How was the man you called the captain dressed?—Dressed like a man going to town. I do not know whether his coat was black or dark green. Q. Had

he a naval dress?—Like a merchant captain going to town.” Then I ask, “Would you have known him as a seafaring man from his dress?—Yes, and his conversation.” Then they wanted to go into the conversation but that was objected to and stopped. Then one of the Gentlemen of the Jury asked him the question whether these people were dressed alike, and he repeats again, “It is not at all likely,” and he does not think it was so. Then he is asked by Dr. Kenealy what countryman this captain appeared to be who was with these men. “Well,” he says, “I thought he was a Welshman, but I may have been mistaken; he may have been; I thought so.” That, you know, would certainly agree with the name of Lewis Owen or Owen Lewis, if this captain was the captain of the ‘Osprey,’ but there is nothing to show us whether this captain going ashore with these people was the captain of the ‘Osprey,’ or some one supposed to be part of the same crew as these men belonged to. He says from his speech he took him to be a Welshman; that might be purely accidental. Then he is pressed as to the time when this occurred. He said he believed it was in June, July, or August, but he had said on a former examination that it might have been May, June, or July, which is not the same thing. He is pressed on that by Mr. Hawkins, and does not get very well out of it. His former examination is read to him as follows: “Do you know the period of the year?—It may have been May, June, or July. Q. Are you not able to say with any certainty which of those months it was?—No; I know it was some months previous to October. Q. But you have no record of anything of that kind to bring back to your mind the actual month?—No. Q. Can you tell me what the season was, winter or summer?—It was summer. Q. The summer of this country or the summer of that?—The summer of that country: it was very hot weather; the seasons are the reverse of what they are in England. Q. Do you mean July is the winter or summer there?—July is winter there. Q. Are you sure it was one of those months?—No; I went up the country in October, and it was fearfully hot at that time. Q. And it was some time before that?—Some months previous to that. The LORD CHIEF JUSTICE: I took down, ‘No, it was some months prior to October, it was the summer of that country—very hot weather,’ did you say so?—I said in October, it was very hot weather when I went up the country. I remember it was blowing a very hot wind.” That having been read to him, he is asked, “Are you now able to say whether it was winter or summer?”—Then the witness answers, “when you asked that question on the former examination I did not understand your question distinctly, and I gave you very distinctly to understand that I referred to the warm weather when I was speaking of the month of October;” and he complains that the questions were pressed too rapidly on him.

Mr. Hawkins points out that it was not he who put the questions, but Mr. Serjeant Ballantine. Then Mr. Hawkins repeats the question which Serjeant Ballantine had asked, “‘Can you tell me what the season was?’” and reminds him that he gave the distinct answer “It was summer.” “Do you recollect now whether it was summer or winter?—Yes. Q. What was it?—Now I say that it was two months previous to the 7th September. Q. Two months previous to the 7th September?—I say so now. Q. That would be the 7th July?—I cannot tell you to a day. Q. Two months previous to the 7th of September?—Yes.” Then, “I suppose you have something that fixes that?—At that time I had not. Q. Have you now?—Yes, I have now something that fixes the date. Q. You now say, as I understand, it was two months prior to the 7th of September. From your fixing two months prior to the 7th of September, I assume, perhaps, wrongly, that you have something to fix that particular date in your mind. What is there on the 7th of September that fixes that particular date in your mind?—I say it was about two months previous to the date that this bears (producing a document). Does your Lordship wish to see it? Q. Tell us what it is?—This is the date of a piece of parchment, the 7th of September, 1854, when the circumstance occurred. Q. What is that paper?—It is a masonic certificate of an event that occurred on the 7th of September. Q. Where did it occur?—In Williamstown. Q. While you were staying in Melbourne?—In Williamstown.” Mr. HAWKINS: “You say it was about two months before that?—I think about two months. Q. Perhaps a little more than two months, as you smile?—Yes, because one time you ask me to say it was two months after, and then you say two months before. Q. I do not care a farthing, only let us understand?—My impression is, it was two months before: You can make it two months before that or two months after, as you please.” Then my Brother LUSH asks: “Have you anything which fixes your saying it was two months before?—I know the dress I had on the day it occurred, which fixes it in winter: at that time I had a pair of thigh-boots on, which I was not likely to wear in the summer.” Here again we are in a difficulty, for if it was two months before the 7th of September, it would take us back to the 7th of July, which would be too early.

Now, I do not suppose that this man intended to say anything untrue, and I do not think it fair to the witness, who may have made a mistake about a date, to pin him down to the precise date of the 7th of July, or some other day in July about two months previous to the 7th of September, when he may have mistaken one month for two; but it only shows with regard to a matter of date, how dangerous and unsatisfactory it is to trust to evidence of witnesses unless there is something really to fix a date in their minds.

The next witness is a man of the name of Francis Longland, who was at Melbourne taking contracts as a brickmaker, and who was there, he says, in the year 1854, backwards and forwards, trading to the diggings. He says he was at Sandridge in July, and met—here we have another shipwrecked crew—three American sailors at Sandridge, with one of whom he had himself sailed with from America at a previous period, and whom he knew again. Being at Sandridge in July, he took a boat to a ship called the ‘Gipsey,’ lying off Williamstown; and he went on board the ‘Osprey,’ which was lying 200 or 300 yards off. He says she was a three-masted schooner. He thinks she had a square fore-yard. There might be one yard on her; he did not see more. The yards were down; he only saw one yard. “On the foremast?—On the foremast, I believe.” He says there were hundreds of vessels lying at that time in Hobson’s Bay; and then he is asked whether these sailors gave him some account of themselves?—“They did: they told me—” Then he is stopped and told that what they said to him is not admissible in evidence. “Did they go on board the ‘Osprey’?—They did. They went on board the ‘Osprey,’”—that is, from the ‘Gipsey’—“I went on board with them. Did you remain on board with them?—Perhaps an hour; and then came with them ashore again. The LORD CHIEF JUSTICE: They came ashore again with you?—Yes. Mr. Justice LUSH: Where to?—To Sandridge.” Then Dr. Kenealy, addressing himself to me, says: “May I ask, my Lord, what they went on board the ‘Osprey’ for?” Then I say: “If they did something, yes; but if it is a conversation, it would be inadmissible. If they did anything it would be different.” Then the witness is asked, “Did they do anything on board the ‘Osprey’?—They went to see for their mates. Were their mates there?—No.” Then Mr. Hawkins objects to anything further; and the witness says that they went back to the shore. The witness says there was only one man on board, who, he believes, was ship-keeper. “Dr. KENEALY: I believe you kept them for some days at your house?—Two or three days. Q. Did you give them anything?—I gave them food, and gave them some clothes; they were destitute. The LORD CHIEF JUSTICE: You kept them at your own house?—Yes, my Lord, they had been wrecked, and lost everything.” Then Mr. Hawkins objects, and the evidence is not gone on with further. The witness gave them food and clothes. He distinctly says they were men “out of the three-masted schooner,” the ‘Osprey.’ Thereupon I observed that the vessel we had just before heard of from the last witness was a barque-rigged vessel, which is a totally different thing. “Dr. KENEALY says: I do not care how she was rigged, so long as she was an ‘Osprey’ that was there, after the evidence that we have heard from the prosecution; we have heard no end of evidence there was no ‘Osprey.’ The LORD

CHIEF JUSTICE: In that point of view I agree with you. But we must not mix up a crew from an 'Osprey,' a three-masted schooner, with a crew from a barque; though I agree with you that if you want to show there was an 'Osprey' in the bay, it is reasonable to show a dozen 'Ospreys' if you can. Dr. KENEALY to the witness: You gave those poor fellows food and clothes; after that where did they start for?—They took ship to Callao. Mr. Justice LUSH: As seamen?—As seamen. The LORD CHIEF JUSTICE: In an outward-bound vessel?—In an outward-bound vessel. Q. Two of these sailors you had never seen before?—I never had: one of the three was a sailor that came over with me from New York. The LORD CHIEF JUSTICE: How recently before?—Mr. Serjeant PARRY: After that, was it not?—No, we landed in June; I met him the next July along with the other two sailors." He afterwards corrects that, and says they landed in the June of the previous year, 1853. Q. "Then you saw the same man again in 1854?—In July, 1854. Mr. Serjeant PARRY: He was with the other men?—He was with the other two men that I did not know. The LORD CHIEF JUSTICE: Did you know his name?—'New York' they called him; I never knew a sailor's name. Mr. Serjeant PARRY: They called him 'New York?'—Yes. Q. How long do you say these sailors stayed with you?—Two or three days, perhaps three days." Now this, you see, is a third shipwrecked crew who had come from on board a vessel of the same name, the 'Osprey,' only a different vessel apparently from the one which was rigged as a barque. Thus we have first the men in blue jerseys and white trousers; they came from an 'Osprey.' Then we get men in common sailor's attire, and who looked like sailors in a low condition; they also came from an 'Osprey.' And now we have three more men, who had mates, but the mates are not forthcoming, who are taken on shore by the last witness, who houses, feeds, and clothes them because they are destitute and had lost everything by shipwreck, and these men went away to Callao. So that we have three vessels and three crews, yet we have no report of a shipwrecked crew at the Custom House, or in the newspapers—a state of things—though I do not say that either of these witnesses is necessarily speaking false—which is certainly what a Frenchman would call *embarras de richesse*, an embarrassment arising from superfluity. You are asked to select out of those different 'Ospreys' and crews one which will fit the exigencies of the defendant's case. Dr. Kenealy says, with an air of triumph, "What does it signify to me—I place three 'Ospreys' before you: take your choice." It is a very easy way of getting out of the difficulty to say, I do not care to pick out the 'Osprey' and the crew which are to represent the saving ship and the crew of the 'Bella'; I leave you to do that: it is enough for me to show an 'Osprey' and a shipwrecked crew. You and I, however,

Gentlemen, must take care to have the right one, one that will fit with the circumstances to which the defendant has spoken—a vessel arriving at the period, and bringing with it a crew corresponding with the number and description of the ‘Bella’s’ crew saved with the defendant in the boat, as he represents.

Then we have a man of the name of Tizard, a respectable man enough, a sailmaker, now at Southampton, who says that in June, 1854, he was one of the crew of the steamship, ‘Queen of the South,’ at that time trading between London and Melbourne and Sydney; that they arrived at Melbourne at the latter end of July and stayed there three days. He is asked: “Did you notice any ship in particular lying in Hobson’s Bay?—Yes. Q. What do you call her?—I called her, and took her to be, a three-masted schooner”—Now this is a sailor who would know perfectly well what a schooner is.—“She may have been a barque dismantled with her afteryards down. Q. Did you see her carry any yards?—One yard on the foremast, the foreyard. Q. What colour was she painted?—Dark; whether it was black or dark green I cannot say. Q. What was her name?—The ‘Osprey.’ Q. What flag did she fly?—The American flag.” Then I ask: “Where was her name painted?—I rather think, I am not certain, I will not swear whether it was on the quarter. Q. You will not be certain?—I will not be certain. Q. The name ‘Osprey’ was on the ship?—Yes. Q. You read it?—Yes.” Then my Brother Lush asks: “You said an American flag?—Yes. Q. Was she at anchor then?—At anchor. Q. When you went in?—She came in after we were there.” Then Dr. Kenealy asks: “Into the Bay?—Into the Bay. Q. What build was she of?—I took her to be an American ship, American built at the distance; I was a quarter of a mile from her.” Then one of you Gentlemen asks: “How long after you were there did she come in?—We were there, I should think, two days. We were three days in Melbourne altogether.” Then my Brother Lush asks this question: “You were three days there?—Three days discharging.” Then my Brother Mellor asks, “You say she came in after you got there?—She might have been lying down inside the Heads. Mr. HAWKINS: He said she came into the Bay.” Then I ask, “The Bay is a very large place?—Yes. Q. You call it all Bay as soon as you get inside the Heads?—We commonly do; no doubt there are other names. Q. Hobson’s Bay embraces the whole up to the Heads?—Yes. Q. She was near up to you, near Williamstown?—Yes.” Then my Brother Mellor asks: “How long had you been in the Bay before you saw her?—Two days. You cannot see the vessels entering the Heads when lying at Hobson’s Bay; it is a long distance. Q. It was two days, as I understand, after you had arrived and anchored, that she came in?—Into Hobson’s Bay. Q. Into Hobson’s Bay?—Yes, my Lord.” Then Dr. Kenealy asks:

“ Did she look like any other nationality but the American?—I could not take her for any other but American. She may have been a foreign built ship. *Q.* Did you know the ‘Comet’ steamer?—Quite well. *Q.* Did she come alongside of you?—Yes. *Q.* Had she any sailors on board?—Nothing but her crew then, at the time, her own men. *Q.* What?—Nothing but her own crew at the time. *Q.* Where was she coming from?—She had been alongside the ‘Osprey’ and other ships in the Bay.” Dr. KENEALY: “Do not tell me what it was, only answer ‘yes’ or ‘no:’ did the people on board the ‘Comet’ make some statement?—Yes.” Then Mr. Hawkins objects to evidence of that statement, and it stops there. Now the importance of this man’s evidence is this. He says, “My attention was directed to a ship, a three-masted vessel, and I saw she was an ‘Osprey.’ I saw the ‘Comet’ go alongside the ‘Osprey;’ then the ‘Comet’ came from alongside the ‘Osprey’ alongside of us; and when she came alongside of us, some statement was made with reference to this ‘Osprey,’ which fixes the name ‘Osprey’ in my recollection.” In that way this fact of the ‘Comet’ coming from the ‘Osprey’ to the ‘Queen of the South,’ and then of a statement being made to him—though that statement is not evidence—tends to show that there was something to make him recollect the ‘Osprey’ in consequence of what was said to him. The witness was cross-examined with reference to the time this occurred, and it appeared that he shipped in England, as one of the crew of the ‘Queen of the South,’ on the 4th of April, and was discharged, on his return to England, on the 13th of October. There was then a good deal of cross-examination, which I think it hardly worth while to go into, to see whether, between these two dates, the exact and precise time at which the “Queen of the South’ was at Melbourne can be fixed. I think it turned out, that it was not when he called at Melbourne, on his passage out, but on the return from Sydney to Melbourne, where they stopped as usual, that he saw this vessel come in. He is a respectable man, and fixes having seen about this period a vessel with the name ‘Osprey,’ swearing very positively as to the name. “Are you quite certain,” asks Mr. Hawkins, “you saw the name upon the vessel you have been speaking about?—Yes, I saw her name upon her. *Q.* You are quite sure of that?—I am sure I saw her name on her.” He is reminded that he was a quarter of a mile off, but he adheres to his point. “Where was the name?—She had a round stern; not quite round; a kind of a half oval; her name was all on the quarter.” Then he is pressed about the form of the stern; but he adheres to it that she was a vessel with a kind of half oval—what is called an elliptic stern—which in nautical language would be called a round stern; and that her name was on both quarters; he read it with the glass, and saw it distinctly. *Q.* “Could you make anything

out of her as to where she hailed from? Did you look with your glass?—No, I did not, I never looked; the ‘Osprey’ was all that I saw.” Then he is asked, by way of testing his memory, not an unfair test to apply, because we are dealing with a matter that occurred twenty years ago—“Were there other vessels lying close to her?—There were vessels around her. Q. Do you recollect the vessel lying next to her?—No. Q. Do you recollect any vessel lying near her?” He remembers one—“The ‘Bosphorus’ was the first vessel, she was lying alongside of us. Q. That is a good reason for recollecting the ‘Bosphorus’?—Yes. Q. Do you remember anything that was not lying alongside of you?—Nothing but a hulk or two that had cargo in. Q. There were lots of vessels lying there?—Plenty of vessels at Williamstown. Q. The only one that you remember, except the one lying alongside of you, is the one lying a quarter of a mile off?—One vessel is one way, the other is the other. Q. Not the name?—No. Q. Nor the build?—No. Q. Nor the rig?—No: I remember the ‘Royal Charter’ there.” Then he is pressed as to the rig of the ‘Osprey.’ “You say she was dismantled, either a three-masted schooner, or a barque dismantled?—Yes. Q. Were her yards down?—If she was a barque her yards must have been down. Q. Were they?—I cannot say; I was not on board her. Q. You had got a good spy-glass?—You cannot see a ship’s deck and bulwarks over another. Q. You can see her masts?—You can see her masts, they are perpendicular, up. Q. You can see whether the yards were there?—The yards may be on deck.” He is asked about the difference between barques and other three-masted vessels. Then I ask, “Had she a maintop?—It was not a top; it was a kind of cross-tree. Q. Is that what a barque has?—Some barques have a maintop; American ships have cross-trees. Q. But a barque has a maintop?—A barque has both fore and maintop. Q. This vessel had not?—This vessel had nothing but a cross-tree the form of the top. Q. Not a top?—I should not call it, but very likely they did.” Then I ask him, “Do you mean to say sailors really call cross-trees tops?—At times, in the general way of speaking. Q. A very general way of speaking indeed?—If they sent you aloft. Q. Is not the distinction between a three-masted schooner and a barque this, that a barque has a maintop on the mainmast?—So has a three-masted schooner; some has and some has not.” He fenced a good deal with these questions, but I think the result is that the description he meant to convey was that she was a three-masted schooner as distinguished from a barque.

Then there is a man of the name of Handley, who was on board the ‘Queen of the South’ at the same time with the last witness, and he represents that he saw this vessel; his attention was directed to her; she was a three-masted schooner or barque, dismantled, nearly

black; he should think a Swedish or American-built vessel. Then I ask him: "Are they built like one another?—Yes, very similar. Dr. KENEALY: What flag did she carry?—American. Did you know the 'Comet'?—Yes, a steamer." Then he says the same thing about seeing the 'Comet' come away from the 'Osprey,' which the last witness had spoken to.

Then there is another witness of the name of Goodrich, who says he was employed at Melbourne by Price and Fricker, auctioneers and store agents. He does not say he saw this vessel at the time she was laying in Hobson's Bay, but he gives evidence which is material as showing there certainly had been an 'Osprey' there, though he does not fix the date of it. He says, that in February, 1854, his employers received a quantity of general goods into the store, marked 'Osprey,' which had been brought up to Melbourne in lighters. They were American goods, consisting of a variety of cargo—lobster cases, oyster cases, jam cases, preserved fish and fruit, flour in barrels, implements, shovel handles and mining shovels, window sashes and doors for the building of houses. He says these goods were afterwards sold on account of the owner, a Mr. G. S. Evans, out of the warehouse of his employers. Whether these goods had been consigned to Mr. Evans or had been bought by him at Melbourne out of the cargo at Hobson's Bay, does not appear. He further states—and here we have a fourth shipwrecked crew—that in September he was asked to subscribe for some shipwrecked sailors, and did so. He further states that two years later, in 1856 or 1857, he being then in the employment of Mr. Throckmorton, a lighterman, a vessel called the 'Osprey' came into Mr. Throckmorton's possession, not in the character of a ship or sea-going vessel, but as a dismantled vessel which had been cut down and turned into a lighter. He represents that the vessel had evidently been originally of American build, but they had, of course, taken her masts out of her, and had cut down her bulwarks almost to her deck, and taken out the deck, so as to convert her from a ship into a lighter, to be used only for the purpose of conveying goods, being towed by a steam-tug, and used for that purpose between Hobson's Bay, where the ships lie, and Melbourne, which is eight or ten miles up the river. Then comes the question: "How do you know that this vessel was called the 'Osprey'?" He says that all he knows about it is this, that when he first saw her, there was no name painted upon her, but when she was advertised as going up the river, conveying cargo, they used to chalk upon a board the name of the lighter in question as the 'Osprey'; whence he assumes that she must have been originally so named, before she was converted into a lighter, and still continued to be so called. That is all he knows about it. There is a long cross-examination about the character of the goods, which he says

were not consigned to his employers, but were placed in their custody to be warehoused and afterwards sold by them as auctioneers, but nothing turns upon this. He stuck to it stoutly, and apparently spoke the truth, that all these goods—that is all the goods capable of it—had the name of the ‘Osprey’ put upon them as goods that had come out from somewhere or other by an ‘Osprey.’ Now if these goods had not been American goods, it might have been possible that they might have formed part of some cargo which was on board the coasting schooner, the ‘Osprey,’ which was lost in Loutit Bay on the 18th of June. But I take it that when goods are put on board a coasting vessel for the purpose of being conveyed along the coast, it is not usual to mark the name of the vessel in which they are embarked; therefore, I do not think that these goods could have formed part of the cargo of that vessel when lost; the more so as it appears that they were, if this witness is right, American goods, of that class which Americans were in the habit of bringing into Melbourne.

Then we have the evidence of a person of the name of John Richards, who was a seaman on board the quarantine boat belonging to the quarantine establishment of Hobson’s Bay, which was used for conveying the medical officer who boarded all vessels to see that the health on board was good, and that there was no danger of infection from the vessel coming further into the harbour. He states that about the middle of the year 1854, very much about the period we are talking of, he took the doctor on board a vessel which had upon her quarter or stern the name of the ‘Osprey.’ “I do not remember the month,” he says, “but it was about the middle part of the year.” “Where was her name?—On her quarter. Q. What build should you say she was?—She was foreign built, either an American or a Norwegian; something of that sort; I do not think she was English built. Q. About what was her tonnage?—About 400 tons, registered tonnage. Q. How many masts had she?—Three. Q. Do you remember how she was painted?—As far as I can recollect, she was painted black.” Then he is asked about her figure-head—you recollect that the ‘Osprey’ which Mr. Russell described had a figure-head in the shape of a white bird, a sea fowl, which might represent an osprey. The other witnesses say that the figure-head of the ‘Osprey,’ to which two or three of them spoke, was either a fiddle or a billet-head; the difference between which, as you know, is that the one is turned up and the other down; in other respects they are the same. Now he says that he and the others of the boat’s crew took the doctor to a vessel that had this name upon her quarter, and they remained alongside until the doctor came back again; and in the meantime there were some men on board of the vessel who spoke to the boat’s crew as they lay alongside. “How many?—From five to

eight; I cannot say nearer than that." Then Dr. Kenealy addresses himself to the Court and says, "May I ask, did they make any request?" Mr. Hawkins objects. Upon this a discussion arises as to the admissibility of the evidence; in the result we allow the question to be put in the following form: "Did they make a request to the sailors in the doctor's boat?—Yes. The LORD CHIEF JUSTICE: Did you comply with it?—No." Then we could not have it farther. He then goes on to say that when taking the doctor on shore they passed a spot where the masts of a sunken ship were visible, and he says that the doctor told him the name of the ship. Of course what the doctor told him with reference to the name of that ship could not be received according to our strict rules; but what he evidently meant to say was, that the doctor told him the name of the sunken ship, connecting the name in some way or other with something concerning the ship they had just left; but what the name of the sunken ship was we unfortunately could not have. "Have you any memorandum, he is asked, or anything which would enable you to fix the date?—No, nothing; no date. It was about the middle of 1854, that is all." Then I asked him: "Have you any date as to anything that fixes that?—It was about the time we used to go and get the pelicans' eggs off the Island; they lay them about the month of June or July—nothing else. Q. But what is it that fixes it as in 1854?—I have a letter to prove that I was there at the time. Q. How long were you there?—from the end of 1852 till when?—The end of 1854." Then it is put, "The end of 1852, during the year 1853 to the end of 1854?—Yes. Q. Can you undertake to swear, or have you anything to guide you, that it was not in the year 1853 you visited an 'Osprey'?—Yes; I have got a cup that was given to me at that time and an engraving upon it of January, 1854; and this was about four months after that—four or five months; four or five; I cannot exactly say." He says there is no record kept of ships that come in if they are healthy, but only of the ships that are put in quarantine; therefore there was nothing to fix it in that way. With regard to the nationality of the ship, one of you Gentlemen of the Jury observed with regard to her being Norwegian, that that was out of the question, because certainly 'Osprey' would not be a Norwegian name. On this I said, "Certainly not; but she might have had some other name originally, and afterwards had her name changed to the 'Osprey'; so that the 'Osprey' would not be the Norwegian or Swedish name, but the name given to her on being brought into the American trade." I was referring then to the statement of Luie, who told us that the ship he spoke of as the 'Osprey' was a ship which had been originally a Swedish vessel and had come from Sweden to America, and there—either at Baltimore or New Orleans—the latter I think—had been brought into the American Marine, whereupon her name had been

changed from the 'Helvetia' to the 'Osprey.' The witness is asked who gave him this cup, and he said Dr. Hunt, that is the medical gentleman in whose service he had been, and who had given him the silver-gilt cup as a memorial. Here again is a witness, a credible man, who certainly says he went alongside a vessel in which there were eight or nine men who made some request, we do not know what, probably to be taken ashore, which was not complied with, because it was contrary to the regulations that the doctor's boat should take any one on shore until the police had been on board. Here is a man who says, I was present alongside a vessel four or five months after a particular thing was given to me, which has the date when it was given to me on it, and I saw the name of the 'Osprey' on that vessel. There can be little doubt that he is right as to the fact of his having seen a vessel called the 'Osprey,' a vessel with that name upon it; the only question is, whether we are quite certain that he is right as to the date, when, at the end of twenty years, he says it was four or five months after a given date, namely, January. My Brother Lush suggests that that would only bring it to May or June, which certainly would be a great deal too early for the arrival of any vessel that could have picked up the crew of the 'Bella' off the Brazilian coast, the vessel from which that crew was saved having gone down somewhere about the 24th of April, while the date would be quite consistent with the vessel having been the three-masted schooner 'Osprey' that was lost in the June of that year.

There are one or two more witnesses on this subject. There is a witness of the name of George Mallinson, now an architect in Leeds, who was in Melbourne from July, 1854 to April, 1855. He went out by that same 'Queen of the South,' and states that he arrived on the 11th of July. In the latter part of that month his attention was directed to a ship called the 'Osprey,' which he describes as painted black, as having three masts, and a white deck house. This gentleman was, I think, rather a flippant witness. He thought it necessary to inform us that he had been induced to come forward by the evidence given by Mr. Childers; that he was so dissatisfied with that evidence that he had volunteered to appear and state against the evidence of Mr. Childers what the state of things was at Melbourne at that time; and he declares that the gold fever was raging there with all the intensity and fury which characterised it at its most active period. With regard to the ship, he says her masts were all standing, but there were no yards on the masts, they were all unshipped; but that he should call her a schooner; that she was rigged on her main and mizen masts as a schooner, whatever may have been the rig of her fore-mast. He therefore bears testimony to the fact that, at this period, that is towards the close of July, 1854, there was an 'Osprey' in the port of Melbourne.

The next witness, George Bell, left England in January for New Zealand, and found his way, afterwards, to Melbourne, arriving there in February, 1854. He goes to certain diggings, and is back at Melbourne about the beginning of July, having come there, like a former witness we had, to spend the money he had made at the diggings and enjoy himself. In July, 1854, he was amusing himself by sailing and rowing about the bay, when his attention was called to a vessel with three masts, which looked, in appearance, like a slaver, flying the American flag, with black hull and no painted ports, which he says was peculiar, and that her name was the 'Osprey.' He describes her as having a deck house between what he calls the mizen and foremast, which he does not succeed in explaining very satisfactorily, but I suppose what he meant was, that the mainmast went through this deck house, because, otherwise, one does not understand how there could have been a deck house between the mizen mast and foremast. He declares he saw her name painted on her quarter, and that the name he so saw was the 'Osprey.' He is asked about her figure-head, but has no recollection of it; he never went on board the vessel.

Then we have that remarkable witness, with whom this series closes, Captain James Brown, who tells us there was a barque, called the 'Osprey,' in Rio, in 1853, an American vessel, from Baltimore; and he says that afterwards, when he heard the 'Bella' was lost, it occurred to him that, from the course that vessel, the 'Osprey,' would be likely to take in sailing from a port in America to Australia, she would be likely to pass over the spot, or near the spot, where the 'Bella,' had foundered, and would be likely to pick up the crew of the 'Bella,'—a strange speculation to enter into the mind of a man, even if there had been no circumstances to detract from the credibility of his evidence. This is the man who told so many strange things which have been positively contradicted by the testimony of highly respectable witnesses.

By a JUROR: Would a vessel, sailing from Rio to Australia, sail northward or southward?

The LORD CHIEF JUSTICE: Southward.

By a JUROR: The 'Bella' was going to New York, therefore she would go northward?

The LORD CHIEF JUSTICE: Yes, it would be so. Well, I do not suppose, after what has happened, and what we have heard about Captain Brown, that you will attach very much importance to that man's evidence.

I have now gone through the different witnesses in respect to the presence of a vessel, or more than one vessel, named the 'Osprey,' in Hobson's Bay at this particular period. No doubt it was a very

considerable difficulty in the way of the case of the plaintiff in the former action (the now defendant) that no 'Osprey' could be found, and that the defendants in the action were enabled to say that the Custom House at Melbourne had been searched, and that no trace of an 'Osprey' at that particular time had been found. Now, that difficulty, so far as it goes, would doubtless be removed if you are satisfied that there was an 'Osprey,' or more than one 'Osprey,' in Hobson's Bay at this particular conjuncture. It would get rid of that very serious difficulty with which the defendant's case had formerly to contend; subject always, as I have already pointed out, to such an 'Osprey' being there concurrently with the time at which, if he arrived at all as having been saved from the 'Bella,' the defendant must have arrived at Melbourne. It would be perfectly useless to make out there was an 'Osprey' in Hobson's Bay in the month of June. It would be equally idle to show there was an 'Osprey' there in the month of September. A vessel can only be, except under extraordinary circumstances, a given time in performing the voyage between the spot where the 'Bella' went down, or where a part of her crew which had taken to one of her boats would have been picked up, and Melbourne; and making allowances for the variation that will take place between one voyage and another, even in the same vessel, you still must bring it within certain reasonable limits, either above or below the common average. The common average, I take it, the defendant has pretty nearly stated—a three months' voyage; we therefore require to fix an 'Osprey' in Hobson's Bay at that particular period. Does this evidence satisfy you, not only that there was an 'Osprey,' or more than one 'Osprey' in Hobson's Bay, but that an 'Osprey' came into Hobson's Bay at such a time that it could have been the saving vessel which he represents as having picked him up? Unless you are satisfied as to the time, the fact of an 'Osprey' being there, although to a certain extent it gets rid of the defendant's difficulty, advances his case but little.

That being so, let us ask ourselves whether the evidence before us for the prosecution and the defence leads us to the conclusion, firstly, that there was an 'Osprey,' and, secondly, that, if so, the 'Osprey' in question was a ship which could by possibility have saved the people from the 'Bella.' Now we have the startling fact that the records of the Custom House of Melbourne have been searched for the months of July and August, and that no trace of any 'Osprey' is there to be found. We have the fact besides, that the lists of the 'Argus,' so carefully collected by the local agents, active in collecting nautical intelligence of every kind—give no indication of any vessel of that name except the little 'Osprey,' which we know could not have been the ship in question. Is it possible that this vessel,

a vessel of 400 or 500 tons, could have entered the port of Melbourne, and brought with her a shipwrecked crew, and that that crew could have landed, without its being known by the authorities and in some way placed on record? As regards the crew, it is said, and may be said with effect, that though, if the local regulations had been strictly and effectually carried into execution, it would have been impossible for a shipwrecked crew to have been landed without the police authorities or the emigration people knowing about it, or without its being recorded at the Custom House, yet that the port of Melbourne was at that time in such a state that the authorities could not meet the pressure which was put upon their staff, and it consequently proved inefficient. There is a considerable body of evidence before you to show the state of Melbourne at that time with reference to the great number of ships coming into the bay, owing to a rush from all parts of the world to the gold fields in the hope of picking up gold. On that subject, however, there is a conflict of evidence. Mr. Childers, a very high authority, who was at the head of the customs, and who ought to know, if anybody should know, what the state of things was, says, that although there was still a great influx of people flocking to the gold fields, the gold fever had in a great degree subsided, and that there was nothing to prevent the local regulations being carried out. Mr. Childers has been abused for coming forward as a witness. I must say, anything so uncalled for it is difficult to conceive. Why, because a prosecution is instituted by the government, a member of the government, if he can afford useful information to elucidate the truth, should not be called upon to give evidence, and should not do so, I cannot conceive. In my opinion, if, when called upon in the furtherance of justice to afford information he was possessed of, Mr. Childers had declined from any false delicacy to appear as a witness, he would have been singularly wanting in his duty. I am glad, therefore, he did come forward to give us such information on the subject as it was in his power to give.

But that evidence is met by other evidence, and you must judge for yourselves which is best entitled to credit. There is one piece of evidence which presents itself to my mind at this moment, and that is the evidence of Mr. Marshall, a gentleman called for a totally different purpose. He was the agent of the 'Themis,' a name which you will not forget. He was called for the prosecution with reference to that vessel, but he was asked in cross-examination what was the state of Melbourne as to the gold fever at that time. He said, having been the agent for a number of vessels at Melbourne, that the gold fever had subsided to a considerable extent, that there was no difficulty at that time in the port (because the pressure was not what it had been) in obtaining clerks or a sufficient staff for government purposes, and

that there was no difficulty in obtaining crews to navigate the vessels home, the difficulties which had existed at one time having ceased.

But, however this may be, I can quite understand that, with every anxiety to carry out the local regulations, there being at that time some two hundred vessels in the bay, there must still have been a very considerable pressure, and a crew of seven or eight men coming in on board a vessel at that time might escape the vigilance of the police and get on shore, and it is quite possible that no mention may have been made by the captain of his having these supernumerary persons on board his ship, although it would be his duty to report it. But there is a much greater difficulty about the ship. In a great city like Melbourne there is a Custom House establishment on a large scale; there are Custom House officers, and we know how quick and active such officers are; yet we are asked to believe that a ship of 500 tons can have come into Hobson's Bay, the port of Melbourne; can have lain there for weeks, and altogether escaped the vigilance of the police, even if the captain did not report at the Custom House, and failed in discharging his duty in that respect. I confess that that strikes me as a somewhat improbable statement. That a shipwrecked crew may have got on shore I can understand, but how such a vessel could have escaped the Custom House officers when she was coming in, it being the uniform practice for one or more of the Custom House officers to board a vessel when she is coming in, I do not know. It was the duty of the captain to go to the Custom House and report himself and his ship. Can we suppose that if he did not do it the Custom House officers would allow that ship to remain there for a considerable period, without any officer going on board to see the Customs' regulations properly carried out? It seems a somewhat startling proposition. Of course the difficulty would be greatly increased if there were two or three 'Ospreys,' all there at one and the same time, as some of the evidence would tend to establish, each of which had landed a shipwrecked crew, because it implies that all these vessels must have eluded the vigilance of the Custom House authorities. Assume, however, that there was an 'Osprey' in Hobson's Bay, and that an 'Osprey' brought in a shipwrecked crew, what I should ask you to consider carefully is whether the result would not be, that while you would not reject the evidence tending to show there was an 'Osprey' in the port, you would very much doubt whether such an 'Osprey' can have arrived in the month of July or August, as represented, and may think she must have come in at some antecedent or subsequent period. Unfortunately, most unfortunately, I think, the gentleman who went to Australia to investigate at the Custom House as to whether an 'Osprey' did come in at the time the

defendant spoke of, only searched for the particular period at which the defendant's 'Osprey' would have arrived. If he had investigated a month or two, or perhaps three or four months before, or for a corresponding time afterwards, he might have very likely come upon some 'Osprey,' which would have corresponded with one or other of those vessels that have been spoken of. That search, however, was never made. The search was limited to the precise period, and it then seemed sufficient. The defendant having said he arrived on the 24th of July, or within a day or two of it, one way or the other, it appeared to be sufficient to search the Custom House records for a month previous to, and a month after that date.

By a JUROR : I cannot reconcile that date with the pocket-book, which says " the 3rd or 4th of June arrived at Hobart Town."

The LORD CHIEF JUSTICE: That is another thing which we shall consider hereafter, when we come to the pocket-book. I am taking the defendant's evidence as it stands, and am inquiring how far the evidence which leads to the conclusion that there was an 'Osprey' in Hobson's Bay, at the time he says he arrived, is consistent with his statement or not.

There is this further difficulty : according to the defendant's account the captain did go to the Custom House, and therefore must have reported his ship. I do not mean to say that the defendant swore that the captain reported, but his statement is, that the captain went to an establishment which he believes was the Custom House. We know that a Custom House is generally a building of some external pretensions, probably has the name written over it, and it is not likely a mistake could have been here made, supposing the whole story to be a true one. We must take the story, analyse it, break it up into its several parts, and see whether the different parts are consistent. The defendant says the captain went to what he understood to be the Custom House, and we must assume he went there in the ordinary course of business. If he did so, the 'Osprey' must have been reported, and in that case an entry would have been made. He would produce his papers, go through the necessary forms, and the ship would be entered ; yet, when the record is searched, there is no name whatever of 'Osprey.' Therefore, even if you should be of opinion that there was and must have been some 'Osprey' in the port of Melbourne, as spoken to by Mr. Russell, there nevertheless remains a serious difficulty, owing to the doubt whether there could have been an 'Osprey' that came in at that time.

You may be of opinion upon the whole body of evidence which is before you, and to which I have called your attention to-day, that there was an 'Osprey' in the port of Melbourne. Now, taking it

for granted that there was a ship of that name called the 'Osprey' in the port of Melbourne, several states of things are possible. An 'Osprey' may have come into Melbourne, but she may not have brought in a shipwrecked crew. A shipwrecked crew may have been brought into Melbourne at that time, but it may not have been brought in by the 'Osprey.' Again, it is possible the 'Osprey' may have brought a shipwrecked crew, but it may not have been the 'Bella's' crew. It is quite possible that the 'Osprey' may have brought in some other crew which she picked up somewhere else; and it is quite as probable that she picked up a shipwrecked crew somewhere else as that she picked them up the other side of the Atlantic. It is many thousand miles from the place where the 'Bella' went down to the port of Melbourne. There is the whole range of the intermediate ocean, and the vessel might have picked up a shipwrecked crew on her course, which was not the crew of the 'Bella.' Again, it might be the crew of the 'Bella,' but even if that were true it would not necessarily follow that Roger Tichborne was with them. Lastly, Roger Tichborne may have been with them, and yet the defendant may not be the man.

Gentlemen, I think it my duty just to put succinctly before you the different speculative possibilities—for they are but speculative—which occur to my mind on the subject, and to reason them out with you. It is possible there may have been an 'Osprey' in Hobson's Bay, but not at such a time as would be concurrent with the narrative of the defendant. It is also possible there may have been an 'Osprey' which did come in at the right time. It is possible that an 'Osprey' may have brought in a shipwrecked crew, but that shipwrecked crew may not have been the crew of the 'Bella;' and when we consider what were the circumstances under which the wreck of the 'Bella,' the remains of her, the things belonging to her, were found, you may perhaps draw the inference that it was not the crew of the 'Bella;' because it has been put to us on nautical authority that the fact of the long-boat being found bottom upwards in the immediate neighbourhood of portions of the wreck, would lead properly to the inference that the vessel had gone down suddenly in some squall, that she had carried down with her the boats which were attached to her davits, while the long boat, being on deck, would very likely roll over as the ship went down and so be found bottom upwards. But that again is a matter of speculation, and may not be sufficient to warrant us in stamping as impossible the statement that the crew took to the boats and that the one boat may have got away with safety, and afterwards been picked up. Now, then, let us suppose it possible that the 'Osprey' did bring in a portion of the crew of the 'Bella,' which had taken to the lesser boat. Of course it would by no means follow that Roger was with that portion of the crew which was in that boat; on the contrary, the probability

would be the other way. We have been told that it would be the duty of the captain, under such circumstances, to take his passenger with him; and certainly it would strike one that when there were two boats, to which the persons on board betook themselves, the passenger would be likely to desire to cling to the captain, more especially as the captain took with him into the larger boat, besides the provisions and the water, the compasses and all those things which were essential to safety; but the defendant has, of course, never represented that he made the slightest effort to go in the larger boat; nor, supposing, for the purpose of the argument, that his story was not a true one, could he have represented himself as going in that boat, because the long-boat was found bottom upwards; therefore, anybody who got into that boat must have perished, and so there would have been an end of the story of Roger. But here again, we are merely speaking of probability; and although it might be scarcely probable that Roger Tichborne was brought in, even supposing the crew of the smaller boat was picked up, yet it is a possible thing. We must look at the vast mass of conflicting facts before us, and at the case in all its bearings. Suppose Roger had been picked up and brought into Melbourne, it would not necessarily follow that the defendant is Roger. It would no doubt relieve the case of the defendant from a vast deal of the difficulty which attaches to it; still it would leave the other facts of the case standing, and in the result, the ascertained and undisputed facts of the case might be so strong as to lead irresistibly to the conclusion, that although Roger might have landed in Melbourne, the man who comes forward as Roger is not Roger. For instance, to illustrate what is in my mind—suppose a man had come forward who was much taller than Roger, and who, instead of being five feet eight inches and a half or near about that height, was six feet high, or who was much shorter than Roger, being only five feet six; or suppose a man with red hair instead of dark brown, or a man with a turned-up nose instead of an aquiline nose; or suppose a man had come forward who had a congenital mark about him instead of a man who had none, or that the man who was in question had a scar on his face, and the man who came forward had none; or was not tattooed, whereas the other man had been. A variety of things of that sort present themselves to the mind as circumstances under which it would be impossible that the man who asserted himself to be the man whose person he assumed, could be the man he professed to represent himself, though it might be proved to demonstration that the latter got safely on shore.

First let us ask ourselves whether there is any fair, reasonable probability that this vessel, the ‘Osprey,’ or any other vessel, picked up and brought into Melbourne the shipwrecked crew of the ‘Bella,’ as

stated by the defendant. According to his account, there were seven or eight persons of this crew. The saving vessel, as he describes her, was a large vessel, a vessel of 400 or 500 tons. He says she had a captain and officers, and a crew of seventeen or eighteen men. She had besides on board, according to his account, eight or nine passengers, making altogether very nearly thirty souls. Seventeen or eighteen of the crew, with the captain and mate, would be twenty; eight or nine passengers would make twenty-eight or twenty-nine persons; besides whom there was the crew of the 'Bella,' amounting to seven or eight men. Yet from that hour to the present, with the exception of Luie, no one has ever come forward to say that he either belonged to the 'Osprey,' or was a passenger on board the 'Osprey,' or had belonged to the 'Bella's' crew. The story of the Tichborne case, I think I may safely say, is known over the whole universal globe, unless among savage tribes and nations. It is difficult to suppose that the facts of this case have not been generally known wherever an English newspaper or a newspaper in the English language circulates or finds its way, or that wherever the English language is spoken, the story of the Tichborne case and trial has not become "familiar as household words;" and yet, though this case has now been pending for years, never has a human being presented himself (with that one exception) as having been one of the 'Bella's' crew, or as having been on board the ship that saved a portion of that crew, and as being able, therefore, to depose to a fact of such essential importance. Communications without end have been made from all parts of the world. Everybody who could give evidence in this case has been, so far as we can judge from the multitude of witnesses, anxious to be called. Heaps of letters have been received on both sides, many have been sent, I must say very improperly, to ourselves, upon the subject of what people knew, or could say, or said they could say, on this subject. But no one has presented himself yet, at least no one to whose statement the slightest value or importance could be attached, either as captain, or as officer, or as one of the crew of the one ship or the other, or as a passenger, to vouch for the truth of the statement that, although the 'Bella' did go down and lies buried in the depths of the ocean, a portion of her crew was saved and taken into Melbourne. This is a very great difficulty, as everybody who reasons upon it must, I think, feel. Even if it could be shown that the obstacle could be got over which existed in the circumstance that no 'Osprey' had been known to be in Melbourne Bay that could be the saving vessel, still when we come to ask ourselves the question whether, from the presence of an 'Osprey' at Hobson's Bay at this time, if one was present, we can fairly infer that the 'Osprey' did bring in the shipwrecked crew, what a formidable difficulty stands in our way when we find that throughout the long months and years during which this case has been pending, no one has appeared

to say they belonged to that ship, or that they belonged to the 'Bella's' crew. I do not say this is conclusive. Even if there was no 'Osprey' there, even if this story of having been saved by the 'Osprey' should prove to be unfounded, yet if the defendant can show you by other and convincing testimony that he is Roger Tichborne, let him have the benefit of it. All I say is, that in considering the facts on the one side and on the other, you must include as a very cogent and a very weighty fact, that no one (with the exception of a witness whom you cannot trust) has ever come forward to say that he was either a portion of the one crew or the other, or a passenger on board the 'Osprey' and so to vouch for the truth of the defendant's story.

As to the one person who has come forward, we must take it upon the evidence before us in this case—I do not wish to prejudge any further inquiry that may be taking place elsewhere—but for the purpose of this trial, after what has taken place, and after the unqualified avowal of the defendant's counsel of his utter and entire disbelief in the truth of that man's story, we must take it that his evidence was perjured evidence, and that his account of his having been on board the 'Osprey,' and having picked up this crew, and the defendant along with them, of having nursed him when in a state of delirium from sun-stroke—which illness, by the way, was heard of for the first time from Luic—the defendant himself never having said a single word about it—but which was adopted with the most eager avidity by his counsel—nursed him, I say, under the effect of delirium produced by sun-stroke, and doctored him in the oddest sort of way by keeping him in a perpetual state of drunkenness during the whole voyage—is a fiction. Independently of the exposure to which that witness has been subjected, I should have disbelieved his statement, because I should have felt satisfied that the administering of stimulants to a person labouring under sun-stroke, to keep him in constant intoxication, must necessarily have had the effect of killing the patient. I cannot suppose for a moment that you will attach any value to that man's evidence, but presume you will discard it as the evidence of one who, whether he came forward spontaneously or influenced by others, whether his lesson, being a fabrication from beginning to end, was got up by himself or was taught him, I care not which—came forward in this court to give evidence on oath which he knew perfectly well from the beginning to the end was a tissue of falsehoods. I am only afraid that you should, in your natural indignation at an attempt thus scandalously made to impose on you, visit the defendant too severely with the consequences. That it has damaged and prejudiced his case there can be very little doubt, but it ought not to do so beyond a fair and legitimate extent. Even if you should be of opinion, as you possibly may be, that the defend-

ant himself, instead of repudiating the story of Luie adopted it, knowing it to be untrue, it does not necessarily follow that his whole case must be one of falsehood and fraud. Men finding themselves in difficulty, believing their case to be honest, sometimes have recourse to falsehood in order to prop it up. When a witness presents himself and says I can prove a part of your case, a man may say to himself, I know you cannot do so consistently with truth, but if you have the hardihood to go into the witness-box and do not mind laying perjury on your soul, and can invent a plausible tale which may make up for the defect of evidence in a material part of the case, the danger is your own, I shall not tell you not to do so—and though this would be a most improper course to follow, it is one which some men might adopt under such a state of circumstances. That, if Luie's tale is false, the defendant must have known it to be false, is, I think, a thing too plain to admit of any reasonable doubt. If a man says, "I was on board a vessel which picked you up, I took you into my berth, and I watched over you and nursed you, I washed you, I dressed you from day to day, and when you were helpless as a child I was your attendant, your doctor, your nurse, and I remind you of the circumstance by the fact that I have crooked fingers, and you used to feel my crooked fingers as I was washing you and dressing you"—the man of and to whom it is said must know whether it is true or not, and if he stands by and allows such a statement to be made on oath, knowing it to be untrue, that reflects on him and will lead to the inference that if he will sanction fraud and falsehood in another to benefit himself, he perhaps may not shrink from using it if the exigencies of the case require it in his own statement. Further than that, do not, because the case has broken down in this particular, rush at once to the conclusion that the whole of the defendant's case must necessarily be founded on fraud and falsehood. Passing this by, we have the striking fact that, with reference to the question whether an 'Osprey' did come into the port of Melbourne, and whether an 'Osprey' did bring in a shipwrecked crew or not, it stands undenied and undeniable that from that time to this no one has ever heard a word of either of any of the 'Bella's' crew or of any person on board the 'Osprey.'

We have next to ask ourselves whether the statement of the defendant on the subject has always been the same. Has he always adhered to the statement that the vessel which picked him up was the 'Osprey'? Has he made that statement with such a degree of certainty as should make you attach to it the character of truth? The first time he ever mentioned the 'Osprey,' as far as we have heard, was upon the occasion of his being asked to make the statutory declaration at Sydney. On that occasion certain questions were put to him in order to enable the solicitor, who was preparing this decla-

ration to be used on his behalf, to draw it up. Amongst other questions put to him was, "What was the ship that picked you up," and he answered without qualification, "The 'Osprey.'" What was the name of the captain? "Owen"—again without any qualification. Now, when thus called upon, he may either have spoken truthfully from his recollection and memory, or he may have given the name in order to cover an intended imposture. If he was not Roger Tichborne, and had not been picked up by the 'Osprey' as he stated, it would be necessary, in order to make his story plausible, that he should be prepared with the name of a vessel which should have picked him up. If he was Roger Tichborne and there was a vessel that had picked him up, and he knew and recollected the name of it, he would at once state that name. If the story was a fiction, he would have to do one of two things, either invent a name altogether, or pitch upon some vessel with the name of which in some way or other he had become acquainted. Which-ever it was, and I am not in the slightest degree desirous of pre-judging that question, he gave unhesitatingly the name of the 'Osprey,' either because it was the name of a vessel that had picked him up, or was a name which he had either made up his mind to adopt as the saving vessel, or which suddenly presented itself to his recollection when he was unexpectedly asked that question. It may have been any one of these problematical cases which I am putting before you.

When the defendant came to England one of the earliest things he did was to go with his legal advisers to Lloyd's to ascertain the particulars, if they could be found, of any vessel called the 'Osprey.' He was interrogated upon the subject in his cross-examination; and, for what reason I know not, he steadfastly denied ever having been at Lloyd's at all. You have heard the evidence of Mr. Gardner as to the fact of his having been at Lloyd's: if you believe that evidence, you certainly will be surprised at the statement of the defendant which I am about to read to you. He is asked: "How soon after your return to this country did you go down to Lloyd's—you, and I think, two other gentlemen—at any rate yourself?"—He answers, "I never went to Lloyd's to my knowledge. Q. That you will swear, will you?—That I will swear; I do not even know where it is. Q. Do you mean to say you do not know where Lloyd's is?—I do not. Q. I will tell you; it is at the Royal Exchange, close to the Bank; do you mean to swear you did not yourself, at least twice, and in company with others, one or two, I am not sure which, but at all events yourself at least, twice go down to Lloyd's to look at Lloyd's books?"—There the Solicitor-General made a mistake; he either made a slip of memory or his instructions misled him. It cannot be asserted that the defendant went twice, he only went once.

—But the answer is “Certainly not”—and this answer would apply to going there once as well as going there twice—“I do not remember ever being at the Royal Exchange in my life. Q. What I ask you is, whether you will swear you did not yourself go down to Lloyd’s and see some of Lloyd’s clerks and look at Lloyd’s books, soon after you came home?—I did not. Q. Twice?—Not even once. I have no recollection of where the place is at all: you say it is the Royal Exchange; then, all I can say is, I have never been there.” Then the Lord Chief Justice says: “Or any place or office of business near the Royal Exchange?—No, my Lord, I have no knowledge of going anywhere. The SOLICITOR-GENERAL: You know where Lloyd’s is, do you not, the place where you learn the course of ships, and so on?—Yes. Q. Now, I ask you whether you did not go to Lloyd’s yourself; I believe, with your legal advisers, but that I will not be certain about—but yourself and others, one or two, twice over, at an interval of two or three days”—that, again, is a mistake—“announcing yourself as Sir Roger Tichborne, and making searches in Lloyd’s books?—I have no knowledge of anything of the kind. Q. Could you have done it without knowing it?—I should think not; therefore not knowing it, I feel sure I never was there. Q. Will you swear on consideration?—Yes, I will swear that I never was there. Q. That you did not go down to Lloyd’s and see some of Lloyd’s clerks and have yourself announced as Sir Roger Tichborne, and make inquiries, and have the books out and search them?—If I went there, I should certainly announce myself as Sir Roger Tichborne, but inasmuch as I do not remember going there—Q. That is not my question. The LORD CHIEF JUSTICE: I have it down two or three times over, ‘I will swear I did not go;’ and his attention has been fully drawn to it; and, on consideration, he says positively that he never was there.” The Lord Chief Justice got a little impatient, and I do not wonder at it; when a man has sworn to a thing it is no use going on over and over again with the same thing. He appears to have been pressed by the Solicitor-General, the object of which I do not appreciate, unless on this supposition, namely, that the learned Solicitor-General, when he got an answer which he might have been perfectly and abundantly satisfied with, determined to go on pressing the witness in order to see whether, as of course he would become aware, from the continued cross-examination, that he had given an answer which was very likely to be a doubtful one and on which he might be contradicted, he would avail himself of the opportunity to slip out of it. The examination continues: “Do you really mean to swear you did not make inquiry about the ‘Osprey,’ the ‘Bella,’ the ‘Kent,’ at least, and possibly other vessels?—No, I think you are under some mistake: probably some one went on my behalf, and not myself: I have no knowledge of going. Q. Did you

instruct your people to go?—I think, to the best of my memory, Mr. Holmes told me such a search had been made. *Q.* Mr. Holmes told you a search had been made?—Such search as you speak of. *Q.* When?—A long while ago, not long after I came back. *Q.* Within a few weeks after you came back?—No, I do not think so recently from my return as that.” Then the matter is again put to him in the most pointed way: “I think I understood you to say you denied being at Lloyd’s?—Yes. *Q.* And did not know where it was?” The Solicitor-General had there the same gentleman who was examined before us, and he calls upon him to stand up in court. “That is one of Lloyd’s men: do you mean, in his presence, to deny that you were at Lloyd’s for hours looking at the books?—I certainly have no remembrance of being at Lloyd’s. *Q.* No remembrance?—No, none whatever. *Q.* For two or three hours—you have no remembrance; will you swear in the presence of that gentleman, that you were not at Lloyd’s yourself making inquiries, and having the books for two or three hours?—I swear I have no recollection of being anywhere of the kind. *Q.* You must recollect it?—I do not believe I ever was there. *Q.* Will you swear, in the presence of that gentleman, that you were not at Lloyd’s for two or three hours, having the books out, and making examinations with him?—I certainly were not. *Q.* Will you swear?”—I should have been satisfied with the answer, but the Solicitor-General still presses him—“Will you swear you were not, in his presence?” He swerves a little from the point which he had come to before. “I have never seen this gentleman, to my knowledge. *Q.* Will you swear you were not?—I swear I have no remembrance of being at Lloyd’s; I do not know where the place is. *Q.* Will you swear you were not?—I have been to several places with Mr. Holmes. *Q.* Did you not go down to the cellar at Lloyd’s to see the books?” One would suppose if he did go down to the cellar, that would bring the circumstances back to his recollection—“I have no remembrance of being down any cellar. *Q.* Will you swear you were not?—Really, I do not know: I have no recollection whatever. *Q.* You told me you did not know where Lloyd’s was?—No more I do now: You say the Royal Exchange? *Q.* I ask you whether you did not go to Lloyd’s yourself, and see that man, and be there two or three hours, and go down into the cellar, and see the books?—If I have done so, it must be in the company of my attorney; and I have no knowledge of it; I have no knowledge it was Lloyd’s at all. *Q.* I have told you where Lloyd’s was, and you said you had never been there?—Even now I say I have never been there. *Q.* You cannot forget going to the Royal Exchange, and into the cellar, and seeing any books?—I cannot say whether I have; as to going over any books, I have never been over any books whatever. *Q.* Will you swear that?—I will swear that I

never looked at a book in my life in any cellar." The cross-examination goes on for some time, but I do not think it necessary to follow it any farther, till he is asked, with reference to Mr. Gardner, "I ask you in that gentleman's presence, did you not yourself ask to see the books at Lloyd's, relating to the 'Bella' and the 'Osprey?'—I did nothing of the kind. Q. Upon your oath?—Upon my solemn oath, I never did. Q. That you swear?—That I swear."

Now Mr. Gardner was called as a witness for the prosecution, and he told us that the defendant came with two other gentlemen; that by order of one of the superior authorities he (Mr. Gardner) went down with them into the cellar where the books relating to former years are carefully preserved; that the necessary books were opened; that they asked to see the 1854 book or books; they searched for the 'Osprey,' and were evidently in considerable difficulty at finding there was no 'Osprey' at Melbourne at that time, except the little Carmichael 'Osprey,' the 66-ton schooner, which had sailed from this country for that port. And there were only to be found, as Mr. Stevenson, the Secretary for Lloyd's, has also proved, two 'Ospreys' at that port in that year: one the small schooner, the other the three-masted schooner which went ashore in Loutit Bay on the 18th of June. They seem to have been in some difficulty, for Mr. Holmes and the other gentleman (I presume it was Mr. Holmes) turned to the defendant, and said, "Are you sure it was Captain Carmichael? could you tell us the name?"—the name of the captain of the little 'Osprey' having been Carmichael. He said, "No, he had forgotten it." It turned out that that was the only 'Osprey' on the books which could have arrived at Melbourne at that particular time. Then they searched for the 'Bella,' and ascertained the particulars relating to the 'Bella,' but there was no entry, I think, as to her loss, and therefore some doubt seems to have arisen in their minds on the subject of the 'Bella.' The witness says they remained searching for two hours, and then left, observing that they could not stay any longer, as Sir Roger was leaving for Paris. This witness distinctly says the defendant was introduced by these gentlemen as Sir Roger. It was stated at the time that he had been lost in the 'Bella' and picked up by the 'Osprey,' and it was on that account that they wanted to search the books for the names of those two vessels.

Now, up to this time the defendant had stated, without any qualification, that it was the 'Osprey' that had picked him up. Not only had he so stated when making his declaration at Sydney, but when he was coming towards home in the 'Rachaia' with Mr. Hodson, he told that gentleman in the same way, when talking about the rescue, that the name of the vessel was the 'Osprey,' and Mr. Hodson says it made an impression on his mind because he

had been managing for a steam company out in Australia, "and they had a vessel of that name, which impressed the name on his mind." He says: "I remember perfectly well he told me, without any qualification, it was the 'Osprey' that saved him."

Having made this search at Lloyd's, and having found no record in Lloyd's books of any 'Osprey' that would correspond in point of character of ship and time of arrival at Melbourne, of course the confidence of the defendant in asserting it was the 'Osprey' would be shaken. At the same time it would be difficult, having said it was an 'Osprey,' altogether to abandon that position, so he qualifies his statement; and when he was asked, on his cross-examination before Mr. Roupell, what the name of the vessel was—which of course was a most proper question for Mr. Chapman Barber to put—his answer is not that it was the 'Osprey,' but "I am under the impression it was the 'Osprey.'" "You do not know for certain?—No, I do not. Q. Can you give us the name of the captain?—It was either Owen Lewis or Lewis Owen. Q. Have you ever seen him since?—No, I have not. Q. Have you had any communication with him since?—No. Q. Did you tell him you were the eldest son of a baronet?—I cannot say whether I did or not." On the next day, the cross-examination being continued, he is further asked: "You said yesterday that you were under the impression that the name of the vessel which saved you was the 'Osprey;' cannot you be certain of the name of the vessel?—No, I cannot. Q. You were on board this ship many months?—Yes, I was on board a good while. Q. Can you tell me what port she belonged to?—No, I cannot. Q. Had she any boats on deck?—Yes. You must have seen her name often enough then?" Then comes the characteristic answer: "It appears that you want to tell me what I must have done; I am telling you what I did do; I tell you I am under the impression it was the 'Osprey,' and I cannot tell you anything more. Q. How many boats had she on deck, I ask you?—That I do not know. Q. You cannot even now tell me the names of any of the officers, or any of the crew, on board the 'Osprey'?—No, I cannot, except so far as I have mentioned my impression as regards the captain's name." Then the examiner repeats: "That it was Lewis Owen or Owen Lewis." So matters stood until he came to be examined in the Court of Common Pleas, and on the examination in chief this subject is dismissed in a couple of questions. Mr. Giffard says: "Now I will ask you what was, as far as you can remember, the name of the vessel?—I was under the impression it was the 'Osprey.' Q. Is that your impression still?—It is. Q. Do you remember the name of the captain?—I do not remember it distinctly, but it was either Lewis or Owen." It is thus stated as an impression. "Now, is that your impression still?—It is. The LORD

CHIEF JUSTICE: Did I get the answer correctly that you were under the impression it was either Lewis or Owen?—Yes, my Lord.” On the cross-examination of course a matter of such importance was not lost sight of and it is fully gone into, and the Solicitor-General asks him: “You have told us about the ship going down, and about coming up to the long-boat for provisions and directions, and all that, do you recollect when you were picked up by what, I think, you are under the impression was the ‘Osprey’—what sort of a vessel she was?—She was a large vessel. Q. Larger than the ‘Bella’?—Yes; I should think she was larger than the ‘Bella.’ Q. Where did she come from, do you know—what was her port?—I do not know, I am sure, what her port was. Q. Was not the ‘Osprey’ of—something or other—painted on her boats on deck?—Not that I recollect. Q. You were nearly three months on board, were you not?—I was. Q. Did you never find out what port she hailed from?—No, I did not. Q. Did you never think to ask?—Well, I suppose not. Q. Three months on board?—Yes, three months on board, and ill very nearly the whole of the time. Q. But you never thought to ask where she came from?—No, I did not. Q. Nor, if I recollect right, to be quite sure, even the name of the captain who saved you?—I am still under the impression his name is what I stated. Q. What?—Either Lewis Owen or Owen Lewis. Q. But which went first you do not know?—I do not.” Then a question was put which is certainly not immaterial: “What sort of people were there on board the ‘Osprey’?—They appeared to be English, Europeans. Q. The passengers talked English, did they?—Yes, they spoke English. Q. What number, 10, 20, or 30?—No, I think there were eight or nine. Q. You cannot tell me where she came from?—No, I cannot.” He was then asked whether he could not tell whether the ship stopped anywhere on her passage. I think that was because the little ‘Osprey’ had put in at the Cape of Good Hope. He said the ship did not stop anywhere. Then, having accounted for his not having made inquiries by saying he was delirious, he was asked how long his delirium continued, and he says “for a long while. Q. How do you mean for a long while?—I should think over two months.” He is asked if there was a doctor on board, and he says no, the captain gave him medicine from time to time.

Now you see this uncertainty, both as to the name and the nationality of the ship, the port from which she came, the name of the captain, or any other circumstances connected with it, is accounted for by his having been delirious. In his affidavit he says he was in an exhausted state when he was rescued, and was for some time seriously ill on board the ship which saved him, but

he makes no mention of having been delirious. However, that might possibly be omitted owing to the importance of it not being at that time seen. On cross-examination before Mr. Roupell, he makes no reference whatever to this deliriousness, but on re-examination by Mr. Serjeant Ballantine, on a later day, he says his head was much affected after the wreck, and he was after that very often out of his mind. On his examination in chief, he stated in answer to Mr. Giffard that when he went on board he was insensible; but he said nothing then about being delirious. He was asked, "Are you able to explain at all how it was you became insensible?—Well, no; without it was over-excitement. Q. How long before you lost your senses do you remember having food or water?—It must have been very nearly sixty hours—not food and water—water." He certainly could not have been so more than twenty-four hours, therefore this was a manifest exaggeration. They were only three days and three nights at sea in the boat; on the morning of the fourth he was picked up. The long boat with the food and water was not lost sight of until the second night, so that until the evening before the second night they had their supply, and the supply therefore was only wanting the next morning and the next evening. Hard enough, no doubt, and cause of suffering enough, to be twenty-four hours without water, but certainly it was an exaggeration to say the period of suffering was prolonged to sixty hours. "I think you said it was very hot?—Very hot. Q. The sun out?—Yes, very hot indeed. Q. What food had you had? I think you say you had had food within the sixty hours?—Yes, we had some of the biscuits. Q. What, some of the biscuit that was soaked with salt water?—Yes. Q. Was your illness only for a time, or did it continue after you were on board the vessel?—It continued for some time, I believe. Q. What was the state of your memory on board that vessel that picked you up?—Very imperfect. Q. Are you now able to recall all the events of the voyage in that vessel?—No, I am not. The LORD CHIEF JUSTICE: What is your answer to that?—I am not able to recall all that passed. Mr. GIFFARD: Are you able to say"—this was a very taking question—"Are you able to say whether that illness has affected your memory generally or not? Is your memory now the same as it used to be before you were shipwrecked?" I give the defendant credit for honesty in not rising to that fly so dexterously thrown by Mr. Giffard. Mr. Giffard was in hopes he could get his client to say his memory had been permanently affected, so as to cover any future deficiency as to things he ought to have recollected. He replies, "I cannot answer that question. I do not think I am capable of judging of that." In other words, "I am not going to say my memory has been affected, you may think so or not as you please." On re-examination he said he was delirious for two months,

and had no recollection of anything whatever during the greater part of the time. "And you say as far as actually being taken on board you have no distinct recollection?—No, I have none. Q. Now, I believe you stated in your examination in chief, but I must be excused, as it is so long ago, if I just ask you in what state you were, as far as you can recollect, during the greater part of the three months you were on board the strange vessel?—Well, I cannot remember what state I was in. I can only remember what I was told afterwards."

Thus, you see upon the evidence which I have been reading to you that that which was stated as a matter of perfect knowledge at Melbourne was converted into a very qualified assertion on his examination before Mr. Roupell, and also on his examination and cross-examination in the Common Pleas. But it does not stop there. There is a fact which is not a little calculated to shake one's confidence in the defendant's statement that he was picked up by an 'Osprey.' For in the year 1868 we find him entirely giving up the 'Osprey' and taking to a vessel called the 'Themis' as the one that saved him. This is a part of the case to which it is necessary to draw your attention. In the year 1868, I think it was in July, a man of the name of Smith, who had been on board a ship called the 'Themis,' which arrived in Hobson's Bay in the month of July, 1854, made some communication to the owners of that vessel (gentlemen living at Liverpool), with reference, I suppose, to some one having been taken into Melbourne by that ship, or something of that sort, which led the owners of the 'Themis' to communicate by telegraph to Mr. Holmes, who at that time was known to be the attorney for the defendant. Mr. Holmes immediately sent down an agent of the name of Bridger to follow up the clue which seemed to have been thus afforded, by investigating the books of this firm, Messrs. De Woolf & Co., and by looking at the log of the 'Themis,' to see whether the 'Themis' had picked up any shipwrecked crew. The defendant went down himself, and wrote to Rous, that he was now satisfied that the 'Themis' was the ship that saved him. He and Mr. Bridger make inquiry about the 'Themis,' and for a time they seem to have entertained some notion that the arrival of the 'Themis,' and other circumstances connected with that ship, would square with the representation of the defendant as to his having been brought into Melbourne; but when the log came to be examined they could not find any entry whatever of a crew having been picked up.

Now, according to the evidence of the nautical men, such a circumstance as that of a shipwrecked crew being picked up by a vessel would be certain to be entered in her log. It would be the duty of the mate to enter it, and that of the captain to see it was entered; first, because all incidents of any importance happening on the

voyage are entered on the log of the vessel; secondly, for a still more cogent reason, namely, that when a shipwrecked crew are picked up and conveyed to any distance by the vessel that saves them, the owners of that vessel become entitled to compensation for the cost of keeping and maintaining the men so taken on board. Thus, if we had the log of the 'Osprey' we should be able to see if the 'Osprey' had picked up a shipwrecked crew. We should be able to see from it whether or not the fact was, as has been represented, that she had picked up the shipwrecked crew of the 'Bella.' But we have not the log of the 'Osprey,' and we have no means in that way of ascertaining whether the statement is true or not.

But the log of the 'Themis' was found and forthcoming, and it turned out that there was no entry whatever of any such event in the log of that vessel. There were, however, circumstances which it was thought might suit. It appeared that the 'Themis,' when she arrived at Melbourne, brought with her a passenger, a young man, who in point of age and appearance might have corresponded with Roger Tichborne, and upon that Mr. Bridger and the defendant appear to have fastened. The defendant saw the owners and conversed with them about the ship, and, what is very remarkable, gave them a most accurate description of the 'Themis.' They had in their office a model of a three-masted vessel, and the defendant pointed out on that model the difference there was between it and the vessel the 'Themis.' He correctly described the build of the 'Themis,' the position of her deck house, or deck houses, pointed out the position of the cabin, made a tracing on paper, and actually put his finger on the cabin he said he had occupied—not being the berth which Luie gave as being the receptacle of the delirious, sun-stricken man, but an after state cabin, in which he said he had been placed on going on board the vessel. Where he got the information about the 'Themis' from I do not know. It appears that Mr. Bridger was trying to find some of the crew; whether they did find any of the crew, and whether the description of the 'Themis' was got in that way I do not know; but inasmuch as the 'Themis,' according to the later statement of the defendant when on oath, was not the vessel, and the going after the 'Themis' turned out to be a complete wild goose chase, I cannot understand how the defendant, except from extraneous information, could have been able to describe the 'Themis' with such minute accuracy.

There is a remarkable circumstance connected with this inquiry about the 'Themis.' The Melbourne agents of the 'Themis,' at the time the vessel went to Melbourne, were Messrs. Marshall, Kirk & Co., and Mr. Marshall, one of the firm, happened to be at Liverpool, and the defendant saw him, and that gentleman having said that the captain of the 'Themis' had brought a passenger to his office, the

defendant was desirous of being taken for that passenger, and he described with perfect accuracy—it is one of the most remarkable circumstances in the case—the street, the place where the office of these gentlemen was—and the sort of yard in which it was, and in which, if you remember, there were there some remarkable aloe-trees. The office, and place of business, and residence of these gentlemen were all accurately described. This startled Mr. Marshall, and led him to think it must surely be the man, for he did remember a passenger being brought to him, and the description of his office and its locality was perfect; only there was this difficulty—the man who was brought by the captain to the office was not a shipwrecked man, but an ordinary passenger, and happened to be the only passenger the ship brought. So the thing would not do, and it being clear from Mr. Marshall's statement that the man brought by the vessel was a passenger, and not a part of any shipwrecked crew that had been picked up, the 'Themis' had to be given up.

Now comes the curious part of it. So long as the defendant was going upon the statement that the 'Themis' was the vessel, and that he was the passenger taken by the captain to the office of the agents of the 'Themis' at Melbourne, he professed to have a perfect knowledge of where the office was, and all about it; but he afterwards gives up the 'Themis,' and when he comes to be examined before Mr. Roupell, and later, on his examination in the Court of Common Pleas, having dropped the 'Themis,' he reverts to the former statement relating to the 'Osprey.' And then we have this singular change in the adaptation of his recollection to the new state of circumstances. Whereas the captain had taken him to the office of Messrs. Marshall, Kirk & Co., which office he recollected perfectly and could describe the particulars of, so as to satisfy Mr. Marshall that he must, at some time or other, have been there—unless he had ascertained the facts from somebody else—when he came back to the 'Osprey,' he is in total ignorance of what was the place the captain took him to, and he says, "The captain took me to the Custom House, or what I believe to have been the Custom House, and then he took me to some other place, I cannot say what it was, I do not know what the second place was." This strikes me, I must say, as a very remarkable circumstance, and as one that must shake one's confidence in the statement very materially; because either the statement that he had been taken to the office of the gentlemen in Australia who were the agents of the 'Themis' was untrue; or if he was taken there at all he must have been taken there by the captain of the saving ship, whatever that ship may have been, and one would therefore have supposed that that would have been the place to which the captain of the 'Osprey,' if he took him to any place in Melbourne at all, would have been represented as taking him; but twice over, in

the examination in chief and the cross-examination, he states distinctly, and in the most unequivocal manner, that he does not know what the place was to which the captain took him. It is obvious that if he had represented the captain of the 'Osprey' as having taken him to Marshall & Co.'s, he would at once have been contradicted by Mr. Marshall, who knew nothing of any such ship.

There is one more circumstance which is also deserving of attention: when the defendant stated at Sydney that it was the 'Osprey' which picked him up he said nothing whatever about an American 'Osprey.' Those who received his statement naturally supposed that he was referring to a British ship. It was when he had searched at Lloyd's and it was found that there was no English 'Osprey' that would answer to his description—I do not say it is because of that, but it certainly was after that—that for the first time we heard of an American 'Osprey.' Even on the examination before Mr. Roupell nothing was said about the vessel being American. It was not till his examination in 1871 that he stated for the first time that he believed the 'Osprey' was an American vessel. Some of the witnesses who have been called say, however, that the 'Osprey' they saw at Melbourne was an American vessel, and if we could have found an American 'Osprey' to correspond with this 'Osprey' it would have relieved us perhaps of much difficulty; but the records have been searched on the other side of the water and no such vessel has been found. They keep at Washington a general register of all ships registered as part of the American Mercantile Marine. That record was searched by Mr. Purcell, who tells us he could find no 'Osprey,' either of New York, or Baltimore, or Orleans, or anywhere else, with the one exception of the New Bedford 'Osprey;' but this could not be the 'Osprey' that arrived at Melbourne, because she never went there, but was in the year 1854, as shown by the captain and her log, engaged in the whaling trade in other parts of the world: so that we are in this difficulty: if it is said it was a British ship, it is clear there could have been no British ship corresponding with it; while with regard to an American ship, so far as we can trace from the evidence gathered from the American register, there is not any American 'Osprey' which could fit. In addition to this we happen to know that pains have been taken on the part of the defendant, with a view to support the intended evidence of Luie, to see whether any trace could be found of an American 'Osprey' (besides the New Bedford one, which clearly would not do), and that also has failed. I am quite sure that if the indefatigable gentleman, Mr. Whalley, who has taken such infinite trouble in this matter, and who appears to have been so anxious to support Luie if he could, had discovered any trace of an 'Osprey' that would have fitted into the circumstances of this case, we should have had the evidence of it brought forward. Mr.

Whalley was called. He could have given evidence from these records in America, on which evidence for the prosecution has been given, because, according to the rule we have laid down, where public documents cannot be removed from the place of their deposit, and therefore cannot be actually produced in evidence, secondary evidence of their contents is admissible. If Mr. Whalley had found any such evidence he would have told us.

Under all these circumstances you must form your own judgment, whether you believe the defendant's statement that the 'Osprey' did pick him up and take him to Melbourne. That is one of the main issues in this cause, although I am bound to say this, that the defendant has never, since the declaration made at Sydney, stated in clear and distinct terms that it was the 'Osprey;' he has merely given us his impression, and if it was some other vessel and not the 'Osprey,' his statement may still be true. It may possibly be that some other vessel did take him on to Melbourne, and did deposit him there, but then that is always subject to this continuing difficulty, that it is scarcely possible to suppose that a man would be three months on board a vessel by which he had been saved, and part of the time, at all events, in full possession of his senses, and that having received all possible kindness from the captain of that vessel, he should not be able to state positively and with certainty the name of the vessel, her port, or the name of the captain.

These, then, are the difficulties connected with the 'Osprey' case. If the 'Osprey' falls to the ground the defendant's case does not necessarily fall with it, because he may have been saved and brought into Melbourne by some other ship; subject always to what I have pointed out, that it does seem in the highest degree improbable that if any ship had saved him and landed him in a place of safety, he would not have taken care to ascertain, and having ascertained, would not have remembered, the name of the vessel. To which must be added the great improbability that no one from the saving ship should have come forward to attest the truth of his statement in so essential a part of his story.

ONE HUNDRED AND SEVENTY-FOURTH DAY.

Friday, February 6, 1874.

The LORD CHIEF JUSTICE:—Gentlemen of the Jury,—Supposing you had been led to think that Roger had been brought into Melbourne; but that on all the other facts of the case, after being weighed on one side and the other, there should be such a preponderance of

facts adverse to the defendant, as that you could not believe in his identity, you would then, as sensible and thinking men, have to seek some solution for the disappearance of Roger, and of his not being heard of afterwards, except through the man who comes forward and says he is Roger. There are many things that might have happened; Roger might have gone ashore, might have been taken with one of his former seizures, might have died, and been borne to an obscure and unknown grave, and never heard of afterwards. It is no doubt true that these are but speculative possibilities; but where all the facts, or the great majority of facts, tend one way, it is legitimate to have recourse to possibilities to explain a fact apparently inconsistent with them. It may be asked, why and how should it occur to the defendant to put forward the name of the 'Osprey' as the ship that saved him, if that was untrue? If the statement be true, it is the most natural thing, of course, that it should be made; but if all the other circumstances should lead you to the opposite conclusion, and it were asked, how can it be accounted for that he should have adopted the 'Osprey' as the vessel which saved him, this answer may be given. Of course, if his story is a made-up one, he must say he was picked up by some vessel. It would never do to say, "I know nothing about the vessel." It would therefore be necessary to have a vessel to put forward as the one which picked him up and saved him. Even if the 'Osprey' had never brought in any crew at all, there might yet be some circumstances or other which had impressed the name of 'Osprey' on his mind. Suppose that in his numerous wanderings, he had fallen in with some of the 'Osprey's' crew. If there was an 'Osprey' in Hobson's Bay, as you may possibly think there was, about that time, and the crew had rushed to the diggings, as everybody we are told at that time did, he might easily have fallen in with people belonging to that 'Osprey,' and so have become familiar with the name. So, if the crew of the 'Bella' had been picked up and carried to Melbourne, finding themselves without a ship, and without employment, they would very likely rush away to the diggings, and in all probability did so, and their story might be told over and over again round those camp fires, or in the grog shops, or places to which such men might resort, and so the story of the 'Bella's' going down and the crew taking to the boats and being saved, might all be matters of familiar talk. If that should come to the ears of any man who might afterwards be disposed to take up the story on finding there was a search made for Roger, the facts which had come to his knowledge might be made available, more especially if Roger had been saved with the crew of the 'Bella,' and brought in with them. For, supposing Roger had come on shore, and the fact had become known to the defendant, and then many years afterwards, he found that Roger

never had appeared, and was not forthcoming, and so had reason to believe Roger was not living, it might occur to him to assume his name and come forward to personate him. I am merely putting these things as possibilities which you should resort to, only if, on fuller consideration, you were of opinion that the crew of the 'Bella' had landed and Roger had landed with them, but that the rest of the case should lead you irresistibly to the conclusion that the story told by the defendant cannot be true.

There is another matter which it just occurs to me to mention. I have referred to one or two difficulties arising from the inability of the defendant to tell us things connected with the 'Bella' and with the 'Osprey,' which we certainly should have expected him to know. I have pointed out a difficulty arising from the uncertainty as to the name of the ship as well as of the captain; but there is another difficulty which arises from his want of knowledge, to which I think your attention ought for a moment to be directed. One would naturally have expected, I think, that the defendant would have been able to give us some account of his companions in shipwreck and misfortune, who suffered with him in the exposure in an open boat, and the privation and want of food and water, and who were saved with him at the time he was rescued from impending death. It would be going much too far to expect that a passenger who had been only three days on board a vessel, especially if in a state of insensibility from drunkenness, as the defendant represents Roger to have been, should know the names of any of the crew; but it becomes a very different matter, when he is launched upon the sea with seven or eight men in a small boat, and is thus brought into close contact, and so becomes familiar with them, from being associated in peril, in suffering, and afterwards in safety. Under such circumstances you naturally take an interest in people greater than you otherwise would have done. You would have heard them speak to one another; you would have heard the names by which they spoke to one another. Then if you were in the same vessel three months with those men in the vessel which picked you up, after having been companions in disaster for a number of days, you would naturally take an interest in them, inquire about them, learn who they were, whether they were family men or not, whether they had the means of communicating with their relatives and friends, and a variety of things of that sort, which a man with any of the feelings of a man about him would naturally interest himself about, as immediately connected with the people with whom he had been so associated. You would therefore naturally expect that the defendant should be able to tell you, if not the names of all, yet of one or two of those who were associated with him under such remarkable circumstances. I do not know whether the defendant felt that, but he certainly at one time professed to know

the names of some of the crew of the 'Bella' who had been saved with him. He professed to know and state some of them to his friend Mr. Hopkins. The way it arose was this:—there had been on board the 'Bella' a young lad of the name of Evans, who was an apprentice on board, although his name was not carried into the list of the crew. He was a kinsman of Mr. Killey, one of the part owners of the 'Bella;' and when it began to be known and bruited about everywhere that Roger Tichborne, who had been a passenger on board the 'Bella' had been saved, and after a lapse of many years had come to England, Mr. Killey was anxious to learn something about the fate of his kinsman, and knowing that Mr. Hopkins was associated with the defendant, and had taken him up, he wrote to Mr. Hopkins to ask for his own information who were the persons who had been saved with him, and especially whether any one of the name of Evans had been amongst them; and Mr. Hopkins interested himself in this matter, and wrote a letter in answer, which I will call your attention to presently. That this letter was written by the authority of the defendant, is plain from the admission of the defendant himself. He is asked in cross-examination:—"You knew Mr. Hopkins was in communication with Messrs. Vining?"—That is, the owners of the 'Bella.'—"Yes. Q. Did he not consult you as to what answer he should return?"—I should think the probability is that he did. Q. So I should think too. Did not you give him such particulars as you could, for the purpose of being communicated to Messrs. Vining?—Very likely; yes. Q. Have you any doubt in the world that you did?"—I have no doubt about it, but I have no recollection of it." Now this is the letter from Mr. Hopkins to Mr. Killey. I should state that it was written on the 10th February, 1867, shortly after the return of the defendant to this country:—"Dear Sir, I will most gladly give you all the information I can in reply to your note of inquiry, and as Sir Roger Charles Tichborne is at present a guest in my house, I am enabled to do so. The wreck of the 'Bella' took place four days after the ship sailed from Rio; in this time Sir Roger could not of course be acquainted with the names of the crew, and can only speak of those who were in the same boat with him after the wreck. He names the following (you must of course make allowance for my spelling the names)—Sheers, Williams, Dobbin, Pebbles, 2nd mate and carpenter, Yankee (nickname—an American) a native of Valparaiso, a young man who was known as 'Yorky'—a nickname, as he was a Yorkshireman—aged about 16 or 17." Thus, there are four names actually given, and there are three who are described by a nickname or the place of their nativity. There are four—Sheers, Williams, Dobbin, and Pebbles, whose names are given. Then the defendant is asked:—"During any portion of the year 1867, what information had you as

to any of the crew of the 'Bella' being saved?—There was a report, I believe, of three or four of them saved." Then Mr. Giffard puts in one of those technical objections which I never like, and he insists upon it that nothing shall be asked of the defendant with the exception of what he has learnt from other people than his attorney; because the communications between attorney and counsel, and attorney and client are privileged, and therefore any information which had reached the witness through his attorney must be excluded from the evidence. Then the question is put with that exception, and the SOLICITOR-GENERAL says:—"You had a specific statement made to you by your attorney from your agent in Australia, which my friend objects to your giving us, and which I do not for the present insist on. Now you tell me about a report, that there were reports: what reports had you heard of at that time?—There were reports that some of the crew had been found. Q. Did you hear their names?—I believe I did at the time." Then he is asked whether he can tell the Jury the names of any of these people, and he says:—"I do not remember." Q. Cannot you tell us the names; how many the reports referred to; and what names they were, people who, according to you, were wrecked with you, and were three days and nights in an open boat, who were suffering the extremities of danger in the Atlantic, and three months in another vessel going to Australia and Melbourne; do you not remember the names?—I do not remember the name of one of them. Q. Had you not the curiosity to try to find out about them, what their names were?—Yes, I have seen their names since. Q. Can you give me their names?—No, I cannot. Q. Cannot you give me one name?—I could not give you half a one." Then he says:—"I will give you the whole of the names to-morrow, if you want them." "How will you be able," says the Solicitor-General, "to give me the names to-morrow, if you cannot give me them now?—I will cause inquiries to be made to ascertain what the names were." Then it turns out a little further on, that what he is talking of is not the names of the survivors, but of the crew. Then the Solicitor-General says:—"The survivors are what I want—the names of the survivors. People who are down below, at the bottom of the Atlantic, are not of the slightest use: do you know the names of any of the survivors?—I cannot say that I do. Q. Did you ever?—Did I ever? of course I did. Q. The names of the survivors?—Yes. Q. When did you forget them?—I forget them now. Q. Do you think you will remember them by to-morrow?—Very probably I should, some of them. Q. Then, I will ask you, perhaps you will write them down and let me have them.—I will try my best endeavours. Q. Just see now if you can give me one or two names, and you can give me the rest to-morrow.—I am trying if I can think of them. At times I can think of them easy

enough, I cannot now." Then he says he thinks his attorney, that is Mr. Holmes, can furnish the names. Then Mr. Giffard says, "that will not do; I cannot allow that; anything that is asked for must be asked for through me." Strictly speaking that was so. Then the witness interposes with this remarkable statement—"I think I can give you the name of one." "Q. Well, what is that?—'Hivvins.' The SOLICITOR-GENERAL: 'Hivvins?' What did you say?—I am not aware I said anything." Then something is said I suppose by one of the counsel, that the Solicitor-General had not pronounced the name properly. He says: "It is suggested to me I did not repeat it correctly. What name did you give me?—Evans." Now, that is a remarkable circumstance, because in the letter of Mr. Hopkins, written manifestly after communication with the defendant, Mr. Hopkins expressly states that Sir Roger does not remember the name of Evans. Yet, when he is under cross-examination, and is pressed for a name, he says—"I can give you one—Hivvins," which was his way of pronouncing "Evans;" or at all events, as he was understood to pronounce the word "Evans." But it certainly is a remarkable thing that being pressed in this way, he should put forward the name of "Evans." Then it is put to him, how he came to mention the name of Evans—whether it was not in consequence of Messrs. Vining writing a letter to Mr. Hopkins inquiring about a man of the name of Evans? Well, he says, "It may have been so; although I was not able to remember the name when Mr. Hopkins wrote in answer to Messrs. Vining, you were pressing me for a name, and the name of Evans occurred to me without reflecting at the moment from what source that name had reached me, and became impressed on my mind." It is possible—I do not say it is not—but it is rather an awkward circumstance. But that is a secondary consideration—the greater difficulty arises from this, that the defendant should give us four names—Sheers, Williams, Dobbin, and Pebbles, and when we turn to the crew list of the 'Bella'—

By the JURY: There was a witness,—I forget whether Luie or an Australian, who also mentioned "Yorkie."

By the LORD CHIEF JUSTICE: The evidence is voluminous, and the facts spread over such an immense area, that I forget who it was.

By the JURY: I think it was Luie, my Lord; I am not sure.

By the LORD CHIEF JUSTICE: However, the difficulty is that we have four names which are not in the list of the 'Bella,' and which are unknown to the Messrs. Vining; and we have this further significant fact, that there was a Pebbles—if that is merely another form of pronouncing Peebles—who was boatswain or second mate—I think it is the same thing in merchant ships—who was stated in

Mr. Hopkins's letter to have been on board the 'Middleton,' the ship in which Arthur Orton went out; and there were also, as we know, two persons, one named Lewis Owen, and the other Lewis, members of the crew of that ship.

On the other hand, with a view of showing that the defendant was picked up and brought in by either the 'Osprey' or some other ship, it has been attempted—I think it really amounts to no more than an attempt—to show that he gave a cheque to the captain of the vessel which saved him—a cheque for 17*l.* or 18*l.*, for things which he had had on board—either clothing or grog, or both. Let us hear what the defendant says upon that subject, and let us see whether there is any foundation whatever for the supposition that he did give the captain the cheque, and that the cheque came to England and was known of. His recollection, such as he professes to have, is of a very faint description. He is asked: "You went to Melbourne. Did you pay the captain anything?—I do not know whether I did or not. *Q.* Did he ask you for anything?—I have some faint recollection of giving him a cheque: I cannot say positively I did so; if I did it was on blank paper"—That is, not on the paper bankers' regularly issue. *Q.* "Did he ask you for it?—I cannot say whether he did or not. *Q.* You lived at his table and he nursed you when you were delirious for two months, and you lived at his table the rest of the time. Have you not more than a faint recollection whether you gave him anything?—I have not. *Q.* Who could the cheque have been drawn on?—It would have been drawn on Glyn's. *Q.* That would have turned up I suppose?—Mr. Serjt. BALLANTINE: That we cannot have.—The SOLICITOR-GENERAL: You would have had it supplied to you. In your banker's book, in account with Glyn's, you would have seen whether it was or was not?—I do not know: when the cheque arrived there were no funds; they had all been taken out. *Q.* Did you find out that you gave the cheque, and it had been dishonoured?—I did not find out at all. *Q.* What do you mean by saying when the cheque arrived here all the funds had been taken out?—Simply as Mr. Hopkins told me.—*Q.* Excuse me—" Then Serjt. Ballantine complains of the witness being stopped. "The SOLICITOR-GENERAL: What cheque? Mr. Serjt. BALLANTINE: There is only one.—The WITNESS: I am speaking of one cheque that may have been given to the captain; I told you I have a faint recollection of giving him a cheque. *Q.* Mr. Hopkins told you?—Mr. Hopkins told me during my absence a cheque came to Glyn's; the money had been taken from Glyn's before this arrived, and they asked to have the cheque left for a short time. The cheque was sent down to Hampshire. It was acknowledged to be my signature by Mrs. Greenwood who Mr. Hopkins sent it to." Gentlemen, you remember what Mrs. Greenwood said

on that subject—The Witness continues: “It was returned to Mr. Hopkins, and returned to Glyn’s. *Q.* Glyn’s have got it?—I cannot tell; I tell you what Mr. Hopkins told me. *Q.* That you think is the cheque drawn for the captain?—It must have been the cheque, there is no other cheque. *Q.* Where did you draw the cheque?—It must have been on board the ship. *Q.* Before you left?—Before I left. *Q.* Cannot you tell me positively whether you did or not?—No, I cannot; if I did, you would immediately ask me to swear to it, and I cannot. *Q.* Can you tell me what you drew it for?—The only thing I could have drawn a cheque for would have been for articles that I required to wear, that we took from the ship’s stores, and what grog I had. *Q.* Did you not pay the captain anything for his medical care and for provisions?—No, I did not. *Q.* I understood you to say so.—I never said anything of the kind: you asked me what it would have been for; my answer was, it would have been for clothes, which I had taken from the ship’s stores, and any wine I might have had. *Q.* That is exactly what I supposed?—You need not put it down that I said so. *Q.* Did you pay the captain anything for what he had supplied you with?—What he had supplied me with? *Q.* Yes, you lived at his table?—If I gave him the cheque; I am not sure whether I did or not. *Q.* Can you recollect the amount?—No, I cannot: are you asking, can I myself?—Yes. No, I do not. *Q.* You do not recollect at all about the amount?—I know the amount Mr. Hopkins told me. You may tell me what you say the cheque is, so that we can follow that cheque.—**MR. GIFFARD:** This is what Mr. Hopkins told him.—**THE SOLICITOR-GENERAL:** What did Mr. Hopkins say the cheque was?—Between 17*l.* and 18*l.*, I think. *Q.* For three months?—**MR. GIFFARD:** That is what Mr. Hopkins told him.”

Gentlemen, it is absurd to suppose that any cheque can have been drawn by Roger Tichborne dated Melbourne, and sent home to England, and that that cheque should have come to the knowledge of Mr. Hopkins, and that nobody else should have known anything about it. Why the very fact of his having drawn a cheque from Melbourne would have put an end to all notion of Roger Tichborne having perished with the ‘*Bella*,’ and if that cheque had come to Glyn’s after the ‘*Bella*’ had gone down, and Glyn’s had sent it to Mr. Hopkins, what would Mr. Hopkins have done? He would immediately have rung his bell, and ordered his fastest horse to be put into his lightest trap. He would scarcely have stopped to put on his hat, before he would have been on his road to Tichborne in a high state of excitement. One can scarcely conceive him containing himself, and so soon as he got to Tichborne House, he would have rushed out of the carriage and in at the door, and said “Hurrah! I have intelligence for you; do not distress yourselves about Roger;

here is a proof that Roger is alive, I hold it in my hand." Of course, it stands to reason, the father and mother would have put off their mourning, the whole country around would have been in a state of excitement and joy on hearing that an end was put to their distress, as it would have been known that Roger was alive. The thing speaks for itself. Again, when, afterwards, Lady Tiehborne had those unpleasant scenes with her husband, because she would insist upon it, and din into his ears that Roger was alive, as Mr. Gosford describes it, causing Sir James the greatest pain and misery, tearing open the wound as it was healing,—she would have said, "Do not say any more that Roger is dead; he cannot be drowned; he drew a cheque from Australia." In like manner when she afterwards advertised, when she wrote to Mr. Cubitt, and told all about her son, with a view to tracing him in Australia, she would have added, as one of the most important and valuable facts and data to be given to the agent who was to endeavour to find her son, that he was last heard of, not before the wreck of the 'Bella,' but as a survivor of that wreck, from his having drawn a cheque from Australia. It would not then have been a question of mendicants in the garb of sailors having told her a story about a crew having been brought into Melbourne; it would have been a positive and conclusive fact. I say again the thing speaks for itself; and therefore we can only suppose that the cheque which Mr. Hopkins thought of importance, was one of three things,—either it was a cheque which Roger had drawn before he embarked in the 'Bella,' and while in South America, and which came afterwards, and perhaps when there were no further funds at Glyn's to meet cheques, and there had been some question about the payment of it; or it was a cheque of some other date drawn by Roger, which Mr. Hopkins produced to Mrs. Greenwood, for the purpose of proving to her that the handwriting of the defendant was the handwriting of Roger; or, possibly, it was a cheque of the defendant's own, to the signature of which Hopkins referred with a view of inducing Mrs. Greenwood to think that the signatures of the two persons were the same. Notwithstanding all this, notwithstanding the moral impossibility that such a cheque as that could have been drawn by Roger from Melbourne, because that would have been conclusive that he had got there, Mrs. Greenwood was subjected to three-quarters of an hour's cross-examination as to whether she had not been shown a cheque which on the face of it purported to be drawn by Roger. It is really unnecessary to say more on the subject than that the thing entirely breaks down. It is probable that there was some question about a cheque, and that Mr. Hopkins told the defendant something relating to a cheque, which produced an impression on the defendant's mind that Roger

had drawn a cheque, but that such a thing as Roger's drawing a cheque from Australia should have happened is quite out of the question.

In like manner there is a witness who stated that the defendant became a witness to a receipt for him in Australia by the name of Tichborne. This witness is Thomas Summers; he says—"I was in Australia; I was at Castlemain, at a place called the Diggers' Rest, and I bought a horse of a man who was next door to a bush-ranger"—"one of a bad lot"—as he describes him—"I paid the price of the horse—some 30*l.* or 40*l.*, and I desired to have a receipt that I might not be troubled afterwards about the payment.—The seller gave a receipt, and I desired to have it attested, and I asked a man who was going by the name of Castro, and whom I recognise in the defendant, to be an attesting witness, and he wrote his name. When I looked at the signature, I was surprised to find that he had put 'R. C. T.,' or 'R. C. D., Tichborne.' He was more or less intoxicated, and I said 'drunken men and fools always tell the truth,' and I asked him, 'How many more names have you got to go by?' to which he made no answer." This is the man who says, also, that this man Castro went by the nickname of "The Foreigner," from the simple fact that he was not an Englishman. Now what there was about the defendant, if the defendant was the man of whom he speaks, which would induce people out there to say he was a foreigner, I do not know. Certainly, he did not appear to be a foreigner to Mr. Gibbes, and the other people called from Australia; they saw nothing about him which gave them the notion that he was a foreigner. But what makes this man's story unlikely is this—he represents that the defendant who, if Roger Tichborne, had at that time sunk his name to the world, and was going by the feigned name of Castro, in a moment of forgetfulness occasioned by being drunk, signed the name of Roger Tichborne—a thing which the defendant himself does not profess ever to have done in any of his dealings with the various people he was brought into contact with, all the time he was in Australia. There is an improbability in that respect on the face of that statement, but there is a still greater inherent improbability when you come to look at it. The man represents that the defendant in 1857 or 1858 signed his name with the three initials R. C. T. or R. C. D. Now Roger Tichborne never could have signed R. C. T. Tichborne, because he never had a third christian name; or R. C. D. Tichborne, because he did not know, and could not know, that his father, having become entitled by royal licence to put the name of Doughty before that of Tichborne, had assumed the latter name. In addition to which, we find that, when the defendant begins his correspondence with Lady Tichborne, he never adds the third name, showing plainly that at that time he was not aware that the third name had been assumed. If

this receipt had been produced, it might, however, have been a very valuable document. The witness stated that he shewed it to a man of the name of Munday, a farmer at Prior's Dean. Munday is called, evidently a respectable man, and he says, "He told me he had this receipt, and he promised to show it to me, but he never did;" and it appears that Munday attached so little importance to this receipt, that it never occurred to him to communicate to Sir James or Lady Doughty a word about it. What makes the thing suspicious is this, that, as a document of that kind would be, of course, one of very great importance, as showing that Roger Tichborne was alive, and the witness must have been sensible of its importance, from the fact of his communicating this statement to Munday, yet he says that his wife, with his assent and knowledge, deliberately destroyed the document by putting it into the fire with other papers. I hardly think that under those circumstances you will attach very much importance to the statement of that man.

Gentlemen, if Roger Tichborne landed at Melbourne, what we naturally should have expected him to do under the circumstances in which he was placed would have been at once to seek a passage home. The scheme of foreign travel which he had conceived had been entirely frustrated and put an end to by the disaster which had occurred. Instead of being on his way to Mexico, to proceed thence to India, he finds himself at Melbourne, a part of the world which he never contemplated visiting, and which probably would have but little attraction for him. The first thing a man would be likely to do, under such circumstances, would be to obtain a passage to England. The defendant tells us he tried to do so. If he is Roger Tichborne, it is true he did so; if he is not Roger, being conscious that that is what Roger naturally would have done, he tell us that he did so. He says he went with the captain first to the Custom House, and then to some other establishment where the captain endeavoured to obtain a passage for him, but no passage could be got, because of the then state of things in Melbourne; and so he accounts for his not going home. He says, "Before returning to the ship, the captain and I were together at the office, and made inquiries for the purpose of ascertaining how I could get a passage to England, but without any useful result. I learnt that Melbourne was then in a very unsettled state in consequence of the gold mania; that the crews of ships as they arrived very frequently deserted for the gold diggings, and that there was consequently great difficulty in procuring a passage to England. There were a great number of ships then in the port unable to start for want of hands." That is what he states in his affidavit. On his cross-examination, he is asked—"Now, when you landed at Melbourne, just tell us, if you can, what you did?—I went ashore with the captain, and I went to two places with him,—

one I think was the Custom House, but I am not certain about that, and the other I do not know whose place it was." So that you see the statement made to Mr. Marshall when he went down to Liverpool in 1868, upon his examination is altogether abandoned. Mr. Marshall, by way of testing him, tried whether he knew the office of himself and his partners as the agents of the 'Themis'; Mr. Marshall says, "I drew a plan of Melbourne and the principal streets. I said, 'There is Prince's Bridge and there is the Custom House. Show me where you went.' Then he put his finger on a part of the town where our office was situated. I asked him to describe the premises. He did so. He said the office was inside a gateway. I said on which side of the yard was the office situated? He said, 'To the right.' I then asked him which way the captain turned when he went in? He said he went behind a partition to the left. Although it was not behind a partition, he would turn to the left. To test him further, I asked him to describe the adjoining premises, which were burned down in the following year, 1855. He said it was a small cottage with two big trees in front. That small cottage was a little cottage we lived in. The two trees were two aloes—large even for the colony." But all this is abandoned on the examination in the Court of Common Pleas, and he says that he did not know whose office the second place to which the captain took him was. Then, as to his explanation of the story as there given, that he did not get a passage in consequence of the state of the port of Melbourne, and the difficulty in which the captains of ships found themselves to get sailors to navigate them home, a good deal of evidence has been brought to you, but I cannot help thinking it comes to very little; because although there may have been a difficulty at that time in getting crews in consequence of the tendency of people who found themselves out there, whether sailors or landmen, to hasten off to the diggings in order to scramble for the gold, it seems perfectly clear that sailors were found to navigate vessels home, though sometimes, no doubt, at extraordinary wages. It seems perfectly clear that there was no suspension of postal communication by the mail steamers or of conveyance of passengers to Europe. In July, the month we are now speaking of, not only did the 'Queen of the South' come home, a steam vessel belonging to the Steam Navigation Company, which carried the mail at that time, but we know from Captain Reid that his vessel, the 'Red Jacket,' came home at the same time, with a crew of upwards of 100 men. He found no difficulty as to his crew, and he could have made room for a passenger if any passage had been applied for.

Gentlemen, we come next to the narrative of the defendant as to what he did after he landed at Melbourne. The defendant was under the necessity of accounting for the period which elapsed be-

tween the time of the going down of the 'Bella' and his coming forward as Roger Tichborne. The voyage to Melbourne by the vessel which is said to have picked him up would take an average time of about three months. He would have landed in Melbourne some time towards the end of July—he says he did so on the 24th or thereabouts—and he has to account for the time from that date to the time of his coming forward. No one would have believed him if, after so many years of absence and silence, he had refused, or had been unable, to give an account of his life and existence in the meanwhile. Now the statement which he makes is this:—On the first and second day after the ship which saved him and brought him into Hobson's Bay had cast anchor in the port, he went with the captain to Melbourne. On the second day, while the captain was engaged on business, he strolled into an auction yard in which a sale of horses was going on, when a horse was brought out and shown which plunged and bucked violently, which attracted the attention of the bystanders. A stranger was standing near him, and seeing the defendant looking with interest at what was going on, asks, "Do you think you could ride that horse?" To which the defendant says—"I think I could." Then they get into further conversation. The stranger says, "As you can ride, if you want employment, I shall be glad to take you into my service as a stock-driver."—"What is that?" Then the stranger explains to him what stock-driving is. "It is easy enough; you have only to ride after the cattle, and keep them within the run, and bring them home and deal with them as is necessary; it is a pleasant life; and if you are fond of sport, you can get hunting and shooting."—"What are the wages?"—"30s. a week." "Done!" says he, "I am your man; I will go with you." Accordingly, he agrees to go. The stranger says, "We must be off to-morrow morning, as I have to go back to my place at Boisdale, which is 300 miles from here." Let me see that I do not misrepresent the defendant. This is his account of it to his own counsel. He says, "I went ashore for a walk, and I went into one of the horse-yards. Mr. GIFFARD: What yards—auction yards?—Horse-sale yards. Q. In Melbourne?—Yes, in Burke Street. Q. What was going on there? You say it was a horse sale-yard. Were there horses there?—Yes, there was a sale going on. Q. Was there anything that attracted your attention—any horse, or anything connected with horses?—Yes. Q. Tell us what?—There was a horse bucking in the yard. A person standing by, seeing, I suppose, that I was a new arrival, asked me if I could ride that horse. Q. What did you say?—I told him I thought I could. Q. What happened upon that?—We got into conversation together, and he afterwards asked me if I would go down to Gippsland with him. The LORD CHIEF JUSTICE: What?—We got into conversation. Q. And you

added something?—He afterwards asked me if I would go down to Gippsland with him. **MR. GIFFARD:** *Q.* Do you mean at a later period of the same conversation?—Yes, previous to leaving the yard. *Q.* Did you find out what this gentleman's name was?—I did. *Q.* What was his name?—William Foster. *Q.* Just tell us what he said to you about going with him to Gippsland?—I agreed to go down. *Q.* But what did he say about going down?—He told me I should have nothing to do but to ride. **THE LORD CHIEF JUSTICE:** He told you what?—He told me there would be nothing more to do than to ride after stock. *Q.* You say you told him you thought you could ride the horse that was bucking?—Yes. *Q.* Were you a good rider at that time?—I ride very well. *Q.* Did you agree to go with him or not?—I did. I left the yard with him. **THE LORD CHIEF JUSTICE:** Left the yard?—I left the yard in his company, my Lord." And now comes the very remarkable incident of the change of name, which the defendant says took place from this time, but for which he fails to show any satisfactory motive. **MR. GIFFARD:** "Did you retain your own name or change it?—I changed it. *Q.* What name did you change it to?—To Castro—Thomas Castro." Then a gentleman of the jury interposes and says—"On board the American ship you went by the name of Tichborne?—Yes, my own name. **MR. GIFFARD:** What suggested to you that name of Thomas Castro?—By knowing Castro in Chili; I do not know what put it into my head. **THE LORD CHIEF JUSTICE:** Will you repeat what you have said?—I suppose it was by knowing Castro; I cannot exactly tell you what my mind was at that moment, for I have no recollection of it. I had no other reason." He had said the stranger told him he would have nothing to do but to ride after stock. Upon this Mr. Giffard asks: "Do you remember anything Mr. Foster said to you that induced you to go with him?—He said it was very jolly to live in the country, there was plenty of hunting and shooting." This was the same thing as he had in substance said on the examination before Mr. Roupell; for there, while in the hands of my Brother Ballantine, in re-examination, he is asked: "When you were in Australia, used you to ride a great deal?—Yes, I was a great deal in the saddle. *Q.* Was there any hunting there of any kind?—Yes, there was very good hunting. *Q.* Hunting of what?—Kangaroo, emeu, and the native dog—the dingo. *Q.* Were you always very fond of sport of that kind?—Yes, very much so. *Q.* Were you a good shot?—Yes, very. *Q.* And used you to go out for hunting and shooting excursions into the interior?—Yes, very often. I used to go out by myself for months at a time. **THE EXAMINER:** You went out by yourself, did you say?—Yes. **MR. SERJT. BALLANTINE:** When you say by yourself, how do you mean?—I have been four months in the mountains without seeing the face of a human being of any description.

Q. Were you on horseback?—Yes, on horseback. And you have frequently been alone into the interior?—Oh yes, very often. *Q.* Were they occupations that attracted much of your time and attention?—Yes. *Q.* Were you very fond of them?—Yes, I was; they were my principal hobby.” So that, according to his account, he was attracted by the description of the life he would have to lead, and the opportunity of following sports of which he was fond, and he accepts the service at the wages of 30s. a week. He says they started the next morning and rode this journey which Mr. Gibbes has told us is a journey of some 300 miles and upwards. They arrive at Boisdale; there he enters at once on the life which was before him, of a stock-driver of cattle, occasionally slaughtering them when necessary.

We have to observe now very carefully the dates which he gives us to fix the period of the service under Mr. William Foster. In his affidavit he gives this account: “I immediately afterwards left Melbourne with Mr. Foster and his horses, and proceeded to his station at Boisdale in Gippsland, on the Avon River, nearly 300 miles from Melbourne, where I remained about nineteen months. Mr. Foster then gave me charge of the Dargo Station in the Australian Alps, about 115 miles further inland, where I remained”—Be so good as to follow me in these dates—“for about eighteen months, and then returned to Boisdale, where I stayed for about three months, and then left.” Now nineteen months and eighteen months and three months would give a period of forty months—in other words, of three years and four months. As his agreement with Mr. Foster and departure from Melbourne took place at the end of July, three years would bring us to the end of July, 1857, and if we add the other four months, we are brought to the close of the year 1857. On his examination in chief, the defendant’s statement coincides with that of the affidavit. “How long did you stay at Boisdale?—Till the commencement of 1856 or the latter end of 1855; I am not certain which. *Q.* How long did you remain altogether with Foster?—I left him in 1857, the latter part of 1857.” Here we have the same period, that is to say of three years and four months. But on the cross-examination, which took place some time afterwards, he varies the period, and then says he was at Boisdale twelve months, and at Dargo fifteen or sixteen, and then finally at Boisdale two or three, which would give us a period of thirty months in round numbers as against the forty months of his former statement; and you will find by-and-by that the difference is not altogether immaterial.

This period of service at Boisdale and Dargo becomes in every respect of paramount importance. It was during it that, he tells us, he formed acquaintance with a person whom I must now introduce

to your notice, and who becomes a very important personage in the development of this drama, although one whom it is somewhat difficult to follow and to fix. It is a large and stalwart frame, but at the same time one which often assumes a very shadowy appearance. Sometimes it seems to divide itself into two, and then the two unite again; at times the form seems to blend itself with that of the defendant, and again to separate from it, and again to blend with it, so that, at last, one's senses are almost bewildered as to whether we shall conclude that there are two men or only one. Gentlemen, I must ask you most carefully to watch the details of the history of the man whom I am about now to introduce on the scene, who I need not say is Arthur Orton. Not that I am going into the question of whether the defendant is Arthur Orton at this stage of the case: things are not yet ripe for it; the case has not been sufficiently developed; we have not yet got before us all the facts, nor am I at present in a condition to place before you all the facts which it is necessary to take into account in solving that important question; but it is necessary, in order to understand the history of the defendant as Castro, that you should have before you the outline, so far as the facts are undisputed, of Arthur Orton's life.

Arthur Orton, as we know, was the son of old George Orton, the shipping butcher, in the High Street, Wapping; and, until one of the witnesses for the defence asserted the contrary, I had been led to believe that old George Orton was a worthy, respectable man, who enjoyed the esteem and regard of his neighbours and of people who had dealings with him. But one of the witnesses called for the defence thought proper to speak of him as an unprincipled man, who got into debt, and who would not pay what he owed, and struck in that way a blow at the old man's reputation. It is immaterial in this case, except that the example of an unworthy father is sometimes followed by his son, which might account for the things we are told Arthur Orton did. Be this as it may, old Mr. Orton lived many years in the High Street, Wapping, and had a very numerous family; and it may not be unimportant to mention their names, as many of them come up in the course of this inquiry. He had no less than eight sons and four daughters, making a family of twelve, all of whom were born within the years beginning with 1819 and ending with 1834; so that old Mrs. Orton certainly blessed her husband with as numerous a progeny in as short a space of time as a husband could well desire. We begin with Thomas, the eldest of the family, who was born on the 27th of August, 1819. Then comes Elizabeth, Mrs. Captain Jury, born March 16th, 1821. Charles, whom we have heard much of, was born on the 5th of June, 1822. George, who is now commanding a steam-vessel in some distant part

of the world, was born on the 15th of September, 1823. Margaret Ann, the other Mrs. Jury, was born on the 9th of October, 1824. Mary Ann (Mrs. Tredgett) was born on the 4th of June, 1825. William, the man they called Gentleman Orton, because he was slim, and not a great huge figure like the rest, was born on the 21st March, 1827. Robert, who went away at the age of sixteen or seventeen, and of whom we have heard nothing further, I am sure I do not know why, and whose course and whereabouts it certainly would have been more satisfactory to have had brought before us, was born on the 15th of April, 1828. He was, therefore, six years older than Arthur. Alfred, who, I believe, died, was born on the 17th of August, 1829. Edmund, of whom we have heard a good deal, was born on the 1st of March, 1831, and was, therefore, three years older than Arthur. Matilda, another daughter, who died, was born on the 13th of September, 1832. And lastly, Arthur, of whom we have heard so much, and whose history I am about to trace, was born on the 20th of March, 1834.

As a boy he went to some child's school in the neighbourhood, and afterwards to a more advanced school, but seems never to have made much of his letters: and there seems to have been very good reason for it. At an early age, when only about nine or ten, he was afflicted with the malady called St. Vitus's Dance. All the witnesses, those for the defendant as well as those for the prosecution, are more or less agreed on this. We have satisfactory proof of it in the evidence of Mr. Brown, a medical gentleman who was called in and consulted on the subject by the boy's parents, from whom he learned that it had fallen upon the lad in consequence of a fire which had taken place in the immediate neighbourhood. The boy, awaking suddenly in the night, was terrified at the sight of the flames, whence this malady ensued. We have been told that it affected his neck and side as well as his face; and if he was suddenly called out to in the street, or anything happened to alarm or excite him, the manifestations of the complaint became very plain in a jerking of his side and limbs. The malady afflicted his face also, and caused him to slobber at the mouth. No doubt to a certain extent it affected his intellect, for we are told the boy learnt very slowly, and was what is called at school a dunce. Nor does he seem to have had fair play in the matter of education; he was taken away early from school and employed in his father's shop. Whether he was apprenticed to his father appears uncertain, very likely he was not; but that he assisted in his father's shop is certain, and no doubt he was taught his business as a butcher with a view to his afterwards continuing in that employment. But after a time it was found that this nervous affection and the painful appearance it gave him got no better, and, whether on medical advice or not I do not know, the father determined to send him to sea as the best thing that could be done to get rid of this

complaint, as well as to give employment to the boy. Accordingly it was arranged that he should be apprenticed to a shipowner, a Mr. Brooks, master mariner and part owner of the brig 'Ocean,' a vessel which in 1848 was about to proceed on a voyage to Valparaiso, and he was regularly apprenticed by indenture to this Mr. Brooks. A register ticket being necessary at that time, he got it in the usual way, the number being 393,719. In the month of May the 'Ocean' started for Antwerp in ballast, being chartered to take in cargo at Antwerp, and Arthur shipped on board and was employed as cabin boy. Mr. Brooks, who commanded the ship himself, and his wife—having become his widow, she has married again since, and was called before us as a witness—were to have gone out in the ship, but they changed their minds at Antwerp and did not go, and the command was given to a man of the name of Preston who had been mate. The 'Ocean' cleared out from the Thames on the 4th of May. We do not know the precise date of her departure from Antwerp, or of her arrival at Valparaiso, but no doubt she arrived in due course. After her arrival at Valparaiso the vessel was employed for some time in voyages on that coast, the precise nature of which we do not know, but we do know that in the month of June, 1849, she was again at the port of Valparaiso, and that on the 25th of June Arthur Orton deserted from the vessel. He next appears at Melipilla, a place some thirty or forty miles inland from Valparaiso, the reason of which probably was that he was afraid to stay at Valparaiso lest he should be found there by the local police and taken back to the ship, in which case no doubt he would have been roughly and severely treated. Whatever the cause, he wanders inland, and gets somehow or other to Melipilla. It so happened that there was an English doctor, named Hayley, who had settled there, and had married a lady of that country. The boy begged for assistance, and the people could not understand his language, but they made out that he was an Englishman, and as there was an English doctor there they, naturally enough, sent him to the house of the Englishman. The English doctor took compassion on this boy, who told a sad story of ill-treatment on board ship; how the captain had used him cruelly, and beaten him; and the doctor and his wife took the boy in, and fed and clothed him, and treated him kindly. A young fair-haired English boy, telling this sorrowful tale, he found his way to the hearts of these people. It appears that at Melipilla, a large village with a good many inhabitants, not a town, but a sort of half village, half town, the people, being mostly in business or carrying on agricultural occupations, are simple-minded, kindly people, and they took a liking to this English boy, who ingratiated himself with them, and they received him into their houses, one after another, and allowed him many advantages. The country is one where every man has his

horse, the stock of horses being abundant. The boy had been used to ride the Shetland ponies, as we know, and could sit upon a horse, and they used to let him ride their horses, and lent him a gun to go and shoot what he could find—in short, were extremely kind to him for a considerable period. All this has not only been shown by the positive evidence of Dona de Hayley, but it appears also from the Castro correspondence, which, whether the defendant is the Arthur Orton referred to in that correspondence or not, can leave no doubt that Arthur Orton, or some person bearing the name of Arthur Orton, was there, and that he was made much of by the inhabitants, and became on exceedingly intimate terms with them. After a time he got tired of this life, and I suppose had that yearning for home which naturally arises in a young fellow who wishes to see his father and mother and sisters and brothers again; and his friends at Melipilla were kind enough to make up a purse for him to send him to Buenos Ayres on his way to England; but if his first intention was to go by that route, he did not follow it out. Instead of that he goes back to Valparaiso, and there, in order to find his way home, he engages himself as a seaman on board a ship, the name of which becomes very important, namely, the ‘Jessie Miller.’ He signs articles, but signs in the name of Joseph M. Orton, and he is entered in the ship’s books by that name on the 18th of February, 1851. He had no register-ticket. In those days when a man went on board a vessel the register-ticket—I think register-tickets are done away with now—was given up to the captain, and if the man deserted, the register-ticket was forfeited. Consequently Arthur Orton had no register-ticket at this time, and when he obtained one afterwards, as you will see presently he did, it was on the assumption that the former register-ticket had been worn out.

Now, the ‘Jessie Miller,’ in which he shipped, as I have said, as an ordinary seaman, arrived in this country on the 11th of June, 1851. We hear that, for a time, he swaggered about with a smart cap, such as would be worn by an officer on board ship, but which he certainly was not entitled to wear, because he had been only an ordinary seaman. However, he thought proper to wear that and a blue suit, like a man just come from on board ship. After a time he resumes his former occupation, and is seen in the ordinary butcher’s dress assisting in his father’s shop as a butcher’s man, and taking the meat on board various ships, which his father was in the habit of supplying, about the docks and in the river. At this time the nervous affection called St. Vitus’s dance—the convulsive, spasmodic movement of the nerves and muscles, and whatever part was affected by the complaint—had very materially improved. He had ceased to slobber at the mouth, and he had no longer the twitching of the various parts of the body; the twitching of the face alone

remained. We know that the movement of the face continued; it may perhaps be doubtful whether it remained as the result of the former complaint, or whether it was not an hereditary propensity; for more than one witness has told us it was a peculiarity of his father's. A witness of the name of Shepherd, who was called, spoke of that in very strong terms. Whitbread, another witness, says: "The father had a peculiar nervousness about the movement of his eyes; a continual lowering and raising of his eyebrows while you were speaking to him—not a twitching, it was a raising and lowering of the eyebrows. Everybody used to notice that peculiarity." The young man remained a time in London and did not leave again until the end of November, 1852. In the meantime, being a lad of eighteen or nineteen, he thought it necessary, or at all events pleasant, to have a sweetheart: and he addressed himself to a lady whose maiden name I do not know, but who came before us as a widow of the name of Johnson. She did not like him, and would not have anything to say to him, and told him, what I believe was a little feminine fiction, that she was already engaged to a sweetheart, and did not want a second. Then he appears to have addressed himself to Miss Mary Ann Loader, whom he found more favourably disposed, and who consented to be his sweetheart with a view of becoming his future bride. So things continued for some time, but towards the latter part of 1852—I suppose the old man found he had more people in his shop than really did any good—so many sons, and not so large a business as required the assistance of so many—it was thought desirable that Arthur should do something for himself; and he determined to go out to Australia and seek his fortune there, with the further purpose that, if he found he could get on and make money enough to warrant his taking a wife, Miss Loader was to go out and join him for the purpose of their being married. This being so, an opportunity offered for his going out to Australia. One of the vessels regularly trading to Hobart Town was a ship called the 'Middleton,' which belonged, at all events in part, to a Mr. Chapman, a gentleman who lived at Hobart Town, or had a country-house in the outskirts there. Mr. Chapman wanted a pair of Shetland ponies, in which, as we know, old Mr. Orton and his son Thomas dealt; and it was arranged that Arthur should work out his passage in the 'Middleton,' taking charge of a couple of Shetland ponies which were to be sent to Mr. Chapman. Accordingly, he was entered in the crew list as butcher of the ship 'Middleton.' It was necessary that he should get a fresh register-ticket; and also that the articles of apprenticeship to Mr. Brooks should be cancelled, and this being assented to, they were cancelled; and he got at the proper office a fresh register-ticket, with the same number as his former one, namely, 393,719. On the register-ticket he is described as butcher, born at Wapping on the 20th of March, 1834, and his height is given as 5 feet 9½,

complexion fair. Then comes the entry as to marks on the person : "none." Now, marks on the person, you know, may be distinguished into two classes—marks on parts of the person which are exposed, the face and hands ; marks on those parts of the person which would be clothed. As to marks visible on the parts exposed, the officer who takes down the various things which go to make up a man's personal description would look for himself. As for the other, there is no stripping of the person, as there is on a man going into the army, so as to enable the officer to see whether there are any marks or not; that is taken from the man's statement; if he says there are none it is so put down ; while if there are any which the officer can see on the parts exposed, of course he puts them down. The duty may be neglected, but I should presume that if Arthur Orton had any mark visible to the sight upon his face when he got this register-ticket in November, 1852, and the description of him was put upon it, the officer would have noted that, and put it down. There is no mention of anything of the kind. The bearing of this will be seen hereafter. The ticket is signed "Arthur Orton." Then there is this statement on the ticket: "Re-issued to the bearer, Arthur Orton, by the Registrar of Seamen, London, 12th November, 1852, in place of a worn-out ticket of the same number issued, London, 19th April, 1848." Thus we have the Joseph M. Orton of the 'Jessie Miller' clearly and unmistakably identified with Arthur Orton, as, indeed, was fully admitted by the defendant's counsel. Then he is regularly entered on the list of the ' Middleton ' crew. I have the list of the ' Middleton ' crew before me, and among the names upon it are these: "John Lewis," stated to us by Henry Allen, who was cook on board, to have been first mate; "James Peebles, boatswain, or second mate." Then there are names which are unimportant to us: "Alexander Buttas, William Stockdale," and "Henry Allen," who, as I have just said, was the cook and who was a witness before us, "John James, John Burdett, J. James Carter, James Reid," and a name which is not unimportant, "Owen David Lewis."

The vessel left the Docks, we are told by one of the witnesses, on the 29th of November; another witness says she was to have started the previous day, but something occurred to delay her, and she did not go until the following morning. The vessel appears to have been detained in the Downs. We have a series of letters written by Arthur Orton from the Downs, and also from Torquay, where the ship afterwards put in, to his sweetheart Mary Ann Loader, and by-and-by you will have to compare certain letters written by the defendant with these letters written by Orton to Miss Loader, with a view to the writing and the spelling and the general style of them. I will read them as I pass on; this is the first:—

"Sunday, Dec. 12/52. DEAR MARY ANN I now take the first opportunity of wrighting to you which i hope will find you & your

mother quite well as it leaves me the same." I should observe that there is a peculiarity which constantly prevails throughout these letters, namely the writing the pronoun "I" with a small "i." There is another also which should be particularly noted, as, like the use of the small "i," it is a peculiarity in the writing of defendant, as well as of Arthur Orton, it is the constant use of the full stop instead of the comma, either because the writer does not understand the value of the stop, or, intending to use the comma, forms it like a full stop. In the series of letters I am about to read to you scarcely an instance of the use of the comma, properly formed, occurs, the full stop being always substituted for it. "We have been lying here ever since we came away. We went away once but had to come back again it blew so hard. I hope you will write to me as soon as you can. If you write to me to day i shall get it as we are liekely to lay here 3 or 4 days more yet. you must excuse my writen as the ship is picking"—written without the "t"—"very much. we lost one of our anchor last night it blew so hard that it very near blew us on the sand. I hope you will not show this to any one as it is wrote so bad. if i get a letter from you i will write again so Good bye. give my Love to all enquireen friends and except the same from Your affectionate Friend Arthur Orton. You must put them directions on the Letter Dear. Mr. A. Orton on board the ship 'Middleton' Capt. Storie for Hobart Town now at Deal." Then the envelope is addressed "Miss M. A. Loder N^o. 8 Russells Buildings Wapping London." That is from the Downs. Then he gets to Torquay; whence he writes: "Torkeye Christmas Day. MY DEAR MARY ANN I take the opportunity of writing these fue lines"—Where the word "few" occurs it is generally written "fue," which you will find is the way the defendant writes it—"a fue lines to you which i hope will find you quite well. as it leaves me the same i little though"—without the final "t"—"that i should not been farther than this now or i should have had my christmas at home. I have had a happy christmas it is true Because i am quite well. but not very mery. as there was Plenty of work. i received"—he writes received without an i in the second syllable, which, again, is the peculiar spelling of the defendant—"your letter in the Downs but not in time to answer it. as we was just a goin away. so my Dear you must excuse me in not answering it before as it was no neglect of myn I hame Steward of the Ship now so i have got £3 per month for the passage out which will be few pounds for a begaining. i am very confetable on board we have had very bad weather. we was a blage to put in here for shelter. and not very Good Shelter eather. as it is a blowing a gale of wind now 2 anchors down, and Draging. it is now a 11 o'Clock and i am geting sleepy so must excuse the Shortness of the letter give my love to your Mother and

all enquiren friends and except the same from your affectionate and well wishing friend ARTHUR ORTON." Then comes a letter of December the 28th, 1852: "MY DEAR MARY ANN The Boat is going on shew"—he writes "shew" for "shore"—"so i will write a few lines to you which i hope will find you quite well as it leaves me the same at Present. We have had very Bad Wather. it is Blowing great Guns now so you must excuse the shortness of the letter. i am quite well and i hope you and mother is the same. if you write i shall get the letter. write as soon as you can. and let me know how my Dog is and i hope if he is in want of a home you will give him one. not that i hame a fraid of him wanting one. My Dear you must excuse my writing i cant write strat that you can see but i suppose it will do. I hope Mr. Starkie and Mrs. Answer is quite well give my repects to them. i have no more time the boat is a waiting so i must conclude. so Good buye i will write as soon as i can. my Dear let me know wether you will come out. if i send you the means so Good bye give my Love to all and except the same from your affectionate ARTHUR ORTON. Middleton Capt Storie for Hobart Town now at Torkeye Devenshire." He writes again on New Year's Eve: "MY DEAR MARY ANN I receved your letter this evening and was very Glad to hear that you are quite well as it leaves me the same. I wrote you a letter the day we left the downs. But one of the men found it behind one of the water cast. so i suppose the Boatman i give it to. Dropet But i will send you it so as you shall see it was so. not that i think you will doubt my word. I was at first afraid that you would not answer my letter when i found the other. So my Dear Mary Ann you must excuse me on your not gettin it. I hope we may not continue lick this long as i am miserble with out a fair wind. I will as soon as possoble write My Dear when we get out. I have never been on shew here yet. they are frighten i will leave her Because i said so the other day in joeking. I have not lost my sences yet awile Excuse the shortness of the letter. as it is very late, $\frac{1}{4}$ to 12 and i am very sleepy so Good bye. give my love to all enquiren friend and except the same from your affectionate friend Arthur Orton. give my best respects to you Mother and tell her i thank her kindly for her good Wishes. Good bye." There is one more letter of January the 16th from Torbay: "I receved your letter last night. and was happy to hear you are quite well, as it leaves me the same. No my Dear i have not wrote any. since the two notes togather. excepting the one you answers. You ned not care my Dear wather they know i write to you or not for my Part. I can not make out who my other neice is excepting it is Elens. I did not know anythink it. I wrote to them the same time i wrote to you but had no answer yet. The reason you did not get that letter was the wind blew so hard that the Boat could not get on shore until Wednesday i wrote the letter last Sunday. So that accounts for lost

of time. I can not say anything about returning. I don't think our ship will get out safe God know. i might be in London before Hobart Town. but God forbid that i should. The wind is very wild. and the Vessel very crank. The Boat is a goin to try to get on shew this afternoon. but i am a fraid she will not get so far. Those who told you that we had lost one mast tells very great stores"—witten without the "i"—"we have not been out to sea since Christmas day. No sign of fair wind yet. I will write before we sail Good bye give my best respects to your Mother Brothers and Sisters give my Love to all enquiren friends and except the from your affectionate Lover—Arthur Orton. Write when you can Dear." That is the last letter he wrote to her from England. I should particularly observe that all these letters have at the bottom, underneath the signature, that curious hieroglyphic which Arthur Orton appears to have been in the habit of using, which consists of two "c's" back to back, or two crescents, with four dots and a W reversed, with a stroke under it at the bottom; a curious hieroglyphic. Whether they are in the habit in South America of using signs of that description attached to signatures I am not aware. We have had no information given us which would throw light upon that matter. He had acquired that habit somewhere, and he annexes that peculiar hieroglyphic—as we have called it in the course of the trial—to all these letters.

Gentlemen, the 'Middleton,' in which he sailed, arrived at Hobart Town in May, 1853. He was in charge of the ponies on the way out. He was part of the time steward, and then he appears to have resumed his office as butcher, and some one else was appointed as steward. When he arrived at Hobart Town, the ponies, of course, were landed, and he took them to Mr. Chapman. Afterwards he got into employment as a slaughterman with some of the butchers in Hobart Town, and continued in that way for some time, after which he gave up that species of employment, and then became drover, or stock-keeper, to a gentleman in the neighbourhood, who had a station in the vicinity of Hobart Town. On the 18th of September he writes another letter to Miss Loader: "September 18/53. My Dear Mary Ann I take the opportunity of writing these few lines to you which i hope will find you quite well. as it leaves me the same. Henry Angel arrived here last Tuesday. and i was very much surprise at not receving a letter from you. I have being here 5 month"—that is a peculiar expression, bear it in mind; you will find the defendant using the same form of language—"I have being here 5 month and not received a letter from any body but Elizabeth"—with an "r" in the final syllable—a remarkable way of writing it. This might have been accidental, but it clearly is not so, for the word "Elizabeth" occurs again twice in the next letter, and each time it is written in the same way with an "r"—"i suppose

you have quite forgot me now but i have not forgot you yet. nor wont until i get reasons for it. My Dear girl I hope you will be comfitable until i come home. that will be in about 15 month. the gold diggers and solgers are fighting like Tagers in Melborne. as soon as they have done i shall go over and try my luck. they sent here last week for 500 more solgers to guard them. Frank Jury is stil at port Arthur. i have not seen him yet Mrs. Jury had a baby last week. I ham very Glad my Dear you did not come out when i wanted you because this is a Dreadful place to live in. I should not been able to have made you comfitable. and i would sooner luse all i got than made you un so. i dont know what my Brothers & Sisters could be thinking of not to send me a letter by Henry Angel. they must have knewn that i should have seen him when he got here. but never mind. I shall settle with them when i come home. i hope you tell me all the news when you do write. so Good bye give my best respects to your mother. and my Mother and Father Sister and Brothers and all the Family and all inquiren Frinds. I remain Your Affectionate Lover Arthur Orton." After that, Miss Loader says, he wrote her one more letter which she has not kept, which arrived about Christmas, and then all further correspondence was dropped; and he seems to have retained but a very faint recollection of his former love. After that, through the Jurys and their influence with a gentleman of the name of Mansfield, he got employment as a stock-driver with a gentleman in the neighbourhood, a Mr. Johnston, a wealthy proprietor in those parts; and so he appears to have been employed in March, 1854, when he writes a letter to his sister Elizabeth, and this is a date which hereafter may become material. When I say 1854, there is no such date to the letter; it is only dated the 31st of March, but inasmuch as the last that was heard of him by his friends in this country was by a letter from him, which arrived, as we know from Mr. Richardson, on the 9th of June, 1854, this date would correspond with the letter. It is—"Dear Sister, I came back from the Sounds yesterday & received a Letter from Mary Ann Dated 30 Dec^r she say they received a Letter from you. so i suppose by that you have been a long while there. Mary ann says she wrote Four times. but this is the first i received Capt Angel was here some time ago. but he brough no Letters. in fact I came a bout 80 miles from the run to see him. but I only see him once after all, he was so busy with one and other that that he had no time to speak to me. I meet Mr. Jury down at the sounds & had a long talk with him I go to the sounds once every ten days so I shall see him every month. he comes every other day to the sounds for Meat. he seems to be doing very well. I have wrote to George several times but never received an answer let me know my Dear Sister weather you have heard from him or not. i feel very ancius to know. Give my best respects to Capt Jury and tell him i should very much like to see him and little

Emily again. I shall never go to England again Dear lisy. I have made my mind to that. I am now living with Mr W. Ladds of Elizaberth Street. I have been stock riding for him know 2 month. I use to land the imported Stock before. but this pays me better so i shall continue. give Little Emily a Dozen Kisses for me and tell her to give you one for me. So Good by. hoping to hear from you soon. Father & Mother ware quite well when she wrote but Thomas was rather ill. Let me Know how my Dog was geting on when you left. i will write a long one to you when i know where you are for a certain. I dont mean Mary Ann Loader that I got the letter from. I Remain your affectionate Brother Arthur Orton. Care of Mr. W. Ladds Elizaberth St. Hobarton."

Those are undoubtedly genuine letters of Arthur Orton. It was said by the learned counsel for the defendant, that the man who wrote those letters showed such a wretched state of education and manners, that he must be taken to be a "low, coarse brute"—that is the way in which he described poor Arthur Orton. Now I must say, judging from those letters, I see nothing which warrants the application of such language to the writer. The man is an uneducated, illiterate man; he cannot write English, he cannot spell; but it is not because a man is illiterate, and has not had the education and social advantages of his more fortunate superiors, that we are warranted in calling him a low, coarse brute. There is nothing in the sentiments of those letters that in any degree justifies such an assertion. The man shows a kindly feeling towards the girl who is his sweetheart at the time; he speaks kindly and affectionately of his relations and his friends; he has a fond and tender feeling towards a little niece, whom he calls "little Emily," and to whom he sends his kisses; and last, not least, he speaks kindly of his dog, and really shows a good deal of heart, and nothing which in the slightest degree justifies calling him a low, coarse brute. It is not because a man is not well educated and cannot write English orthographically, that you are to look down on him contumeliously and with disdain. I have known many a rough honest fellow one has been brought into contact with, whom one would be very glad to see again and to shake by the hand, valuing the man's grip quite as much as one would the highest nobleman's; and men are not to be spoken of in this way, and would not have been, I suppose, except for the insatiable love the learned counsel has of flinging paving stones at everybody, and so poor Arthur Orton comes in for his share. It is very likely, and I suppose it was so, that Arthur Orton, after he got into the colony, where many wild fellows were congregated at that time, got led astray; probably he fell, as many a man does, by the influence of evil example, and I daresay became afterwards an abandoned, unprincipled ruffian; a robber if you please. He is not the first man who, starting with good dispositions, has thus become per-

verted. It may have been so, but up to this time I cannot see anything which justifies the unsparing abuse which was lavished upon that man.

To continue the narrative: He was, as I have said, in the service of Mr. Johnston as a stock-keeper in the year 1854, at the time he wrote that letter in the month of March. Whether he remained in Hobart Town or Tasmania throughout the year 1854 is doubtful; it is a matter which I should be glad if we could solve, because we shall find evidence by-and-by about Arthur Orton having been seen elsewhere in Australia in the course of that year, 1854; therefore, if we could fix the date of his remaining at Hobart Town, to which he undoubtedly went, it would be of assistance. The only witness through whom any light is attempted to be thrown on the matter is Hawkes, who was a corporal in a regiment at Hobart Town, and was orderly to the governor there, and who remembers the 'Middleton' arriving, and Arthur Orton coming with the ponies, which were an object of curiosity at that time, ponies of that description being rarely seen in those parts. This witness said that he, Hawkes, left Hobart Town on the 12th of September, 1854, and came back to it again in December. After he came back he does not remember to have seen Arthur Orton, but he remembers, before he went away, Orton keeping a butcher's stall, or at all events attending a stall in the new market, which had been recently opened by the governor with some pomp and ceremony, and that the name of Arthur Orton was over the shop. Now this is a matter of difficulty, and there would appear to be some confusion with regard to the dates; because there is no reason to think that Arthur Orton ever opened a shop until the year 1855; and unless this witness, Hawkes, can be relied on, it is quite possible that Arthur Orton may have left Tasmania, and gone to some part or other of the provinces of Australia, and may have come back again to Hobart Town in the year 1855; for most undoubtedly we find him in Hobart Town in the months of May and June, 1855. Mrs. Mina Jury's view of it is that he was there the whole time, but I do not think she specifies any occasion before May, 1855, on which she was actually in personal contact with him, so that she would know positively that he was there. But in May, 1855, he desired to set up a stall in the new market, and wanted funds for the purpose, and he applied to Mr. Francis Jury, the husband of Mina Jury, whose brother, Captain Jury, had married a Miss Orton, and who therefore was a connection of Arthur, to lend him 14*l.*, which he wanted for the purpose. Mr. Jury declined to lend the money, but Mrs. Jury, who had saved a little money of her own, had a friendly feeling for her connection, and lent him a sum of 14*l.*, for which he gave a promissory note: "Hobart May 22, 1855. Three months after Date I Promise to Pay to Mr. Francis Jury the sum of Fourteen pounds for cash advanced to me." It appears that he got 18*l.* instead of 14*l.*; and the ac-

count Mrs. Jury gives of it is this: she met him in the street and she wanted him to go home to her house in order that they might complete the transaction, but he said he was in a great hurry, and begged her to let him have the money where he was. She took out her purse or porte-monnaie, she happened to have a baby in her arms; it was blowing very hard, and the baby was crying and was very troublesome, and the result was, that in handing him the money she gave him a 5*l.* note instead of a 1*l.* note, 1*l.* notes circulating in the colony. She was conscious a minute afterwards that she had done so, and said, "I have given you a 5*l.* note instead of a 1*l.* note." She says he had contrived to slip the 5*l.* note underneath while she was attending to the troublesome baby; and when she said she had given him a 5*l.* note instead of a 1*l.* note, he said, "No, you have not;" and she said, "Oh, yes, Arthur, I have, and you will find it out." Whether it was an accident, or whether his conscience afterwards smote him, I do not know, but on June the 28th, 1855, he writes to them, "My Dear Frinds I have not wrote before on account of not getting settled before last Tuesday. That house in Murray Street. I found out that they ment to take me inn"—with two "n's" in it—"with itt"—written with two "t's"—"So i had nothink to do with it. I have taken a shop in the New Market No. 25, Witch will answer me better. has i am better known in this Neighbourhood. I have got a fue very good customers that will keep me going for awhile till i get a fue more. I am very sorry my Dear Frinds that i did not find out that you had paid me Eighteen pound for 14 until last Tuesday when i Went to pay for the fixtures. i found it out. at least i have 4 pound more than i ought to have. and i think Mrs. Jury paid me a 5 for a 1. and that how the mistake is. Mrs. Jury was speaking of some potatoes. they are fetching from 22 to 24 pound a ton and onions are from 35 to 40 per ton. there is not many in the market. Beef and Mutton is very Dear at present. not for the want of it for thiar is plenty in. But the Butchers run one and other up so much at Sales, Give my best repects to Mrs. Jury and all the chilldren"—written with two "l's"—"and except the same from Your Truley Humble &c. Arthur Orton 25 New Market, Hobarton. I have not heard from any one of my Frinds since i saw Mrs. Jury. my Brother George has never wrote to me since i been here yet. I suppose he forgot me I have wrote 3 or 4 times to Mr. Moore for him But never got an answer that ware Lizy told me to write."

The promissory note having been given on the 22nd of May, at three months after date, on its becoming due in August, Mrs. Jury went to Hobart Town, in hopes of receiving the money, but the bird had flown. Arthur Orton had given up his shop, and made himself scarce, and was never heard of by them more until this day; and of course Mrs. Jury never got her money. After this period, the end

of August, 1855, to December, 1856, the account relating to Arthur Orton is more or less open to doubt upon the conflict of evidence. From December, 1856, to December, 1858, it is free from difficulty.

The next that we hear of him, after leaving Hobart Town, is in the service of the same Mr. Johnston of Hobart Town, at a place called Mewburn Park, a station possessed by the latter in Gippsland, on the opposite side of Merriman's Creek to Erinvale, where Mr. and Mrs. McAlister were at that time living.* Mrs. McAlister had a brother of the name of Dumoulin, who was managing at Mewburn Park for this Mr. Johnston, and the two stations, the Erinvale, where she was, and Mewburn Park, where her brother was, were on the opposite sides of the Creek, and on one occasion, when she and her husband were on the other side, she saw her brother driving some cattle, and with him was a man whom she did not know at the time, but who afterwards was in the service of her husband as Arthur Orton, and who there can be no doubt whatever was Arthur Orton: whether he was the defendant, as she states him to have been, is another matter. I am not dealing with that at present; but that the man she then saw was a man who was afterwards in the employment of her husband as Arthur Orton is a matter about which there can be no doubt at all. At that time the witness William Hopwood was engaged on a job in Mewburn Park in fencing. Timber there is very abundant, and their fences are not like ours; they make them of split wood, carpenters' work; and this man had undertaken a large contract at Mewburn Park for making these fences—this was in 1855—and he says there was at that time, in Mr. Johnston's employment, a man named Arthur Orton, and that this man continued in that employment for about a year and nine months, during the time that he, Hopwood, was there; and that he was there as stock-keeper, and sometimes slaughterman. And he says this same Arthur Orton went into the employment of Mr. William Foster, at Boisdale, a place eight or nine miles from Mewburn, on the opposite side of the river, and that he remained there five or six months—he was, in fact, there five months within two days—he, Hopwood, being in the habit of seeing him constantly, because they met at the stock-yard called the Mowfra stock-yard, which was in that neighbourhood. He says this Arthur Orton told him he had first come out to Hobart Town and had been engaged by Mr. Johnston to go to Mewburn Park.

The next authentic information we have about him is from Mrs. McAlister, who is the widow of Mr. William Foster, having married again since William Foster's death. Now, according to her account, Mr. William Foster was manager of Boisdale from April, 1856. Boisdale and Dargo were two stations, some 70 or 80 miles apart, the property of an uncle of Mr. William Foster, Mr. John Foster, of Hobart Town, who was also the owner of a sheep station

at Erinvale, where William Foster had been previously acting as manager. From the latter he was transferred to Boisdale Station, having under his control, though not under his personal management, because at too great a distance, the second station at Dargo. She states that in the same year that she and her husband went to Boisdale, namely, 1856, Arthur Orton came into their employment—she says, in November, but I think in that respect she must be mistaken, because the books of the establishment represent him as coming on the 15th of December, and the books are more likely to be accurate than the individual memory of any person would be, and these books become evidence of the greatest possible importance in this cause. It appears that they kept at Boisdale for many years, and probably do to this day, account books, and a species of ledger in which an account is kept with every man employed on the cattle or sheep farm; a regular debtor and creditor account. These stations are often isolated, and at a great distance from any place where things can be purchased, and in a country where the means of communication are extremely limited, they are obliged to keep stores to supply the workmen and the people employed on the farms with things which do not form part of the daily nourishment which they get from their masters, but which are still things which they require; and an account is kept with them, in which each man is credited on the one side with the wages he has earned, and debited on the other with the payments he has received, and the price of the things supplied to him from the stores. Each year's account has an index prefixed to it. The books appeared to have been kept in a very methodical and business-like manner, and the index refers of course to the page where the account of the particular individual is to be found, and thus we are enabled by an inspection of these books to determine whether at a given time any particular person was in the employment at the one or the other station. Now, an account was opened with Arthur Orton at the end of the first quarter of the year 1857, but it records that he entered into the service on the 15th of December in the preceding year, that is 1856. When the account came to be made up at Christmas, 1856, he had been too short a time in the service to make it worth while to state an account with him; but on March the 31st, when under the ordinary circumstances he would have had an account for the quarter only, his account is entered as from the 15th of December previous. There is this entry—"March 31. By service from 15 Decr. to this date 15 weeks and 1 day at 25*s.* per week 1*l.* 18*s.* 6*d.*" Then on the 12th of May in that year they state the account with him again—"By service from 1st April to this date at 25*s.* 6 weeks 7*l.* 10*s.* 0*d.*"—making together a period of five months short of two days. It appears that at this date, May the 12th, a fresh agreement was made. We find Arthur Orton still serving as stock-keeper, but he is transferred to Dargo, where he is the head man and has more or less the superin-

tendence of the place, Mr. William Foster not being able to overlook it himself owing to the distance. It was agreed that his salary should be increased, and instead of having 25*s.* a week, he was, for the service at Dargo, to have 80*l.* a year, which would be more than 30*s.* a week; so when they came to state the Midsummer account we have it thus—"June 30. Service at Dargo from 12th May to this date at 80*l.* per annum, 7 weeks, 10*l.* 15*s.* 4 $\frac{3}{4}$ *d.*" Then again—"Sept. 30th. By 13 weeks' service from 1st July to this date, wages 80*l.* per annum 20*l.* Dec. 31. By 3 months' service from 1st Oct. to this date wages 80*l.* per annum 20*l.*" All this time he is at Dargo. That brings us to the close of 1857. Then we come to the next year, 1858. "January 1. By balance from O B fol. 20, 22*l.* 15*s.* 9 $\frac{1}{2}$ *d.* March 31. By wages 20*l.*, 42*l.* 15*s.* 9 $\frac{1}{2}$ *d.* April 1. Balance 34*l.* 8*s.* 9 $\frac{1}{2}$ *d.* June 30. 13 weeks' wages 20*l.*, 54*l.* 8*s.* 9 $\frac{1}{2}$ *d.*" The account having thus been stated, and the balance struck at the end of June, 1858, on the first of July Arthur Orton makes up his mind that he will stay no longer at Dargo, and Mrs. McAlister gave us an account of his return to Boisdale and of their surprise at seeing him make his appearance. She and her husband were one day at the station outside their premises, when they saw a roan horse coming, the sight of which was perfectly familiar to Mr. Foster, and he says, "Hollo! here is 'Roan Tommy,' and that must be Arthur Orton upon him; there must be something the matter, he has no business here, he ought to be at Dargo." In the meantime Arthur rides up, and then Mr. Foster says, "What brings you here?" "Well," he says, "I won't stay at Dargo any longer; since Ballarat Harry disappeared the place is so lonely that I cannot bear to be there alone." Now Ballarat Harry had been murdered, and I believe to this day it is unknown who murdered him. It has been said it was a person of the name of Tope, but a strong suspicion attached, as we heard from one of the witnesses here, a witness called for the defence, to Arthur Orton himself, and the suspicion is rife in the Colony to this day, that Arthur Orton murdered Ballarat Harry. It is quite unnecessary for us to consider whether he did or did not, but the reason given by Arthur Orton on his return to Boisdale for his refusal to go back to Dargo, where, according to the terms of his contract he was bound to serve, was that he could not bear to be by himself at Dargo since Ballarat Harry had disappeared. Well, the result was that Mr. Foster consented to his staying at Boisdale. Afterwards, not immediately, but on the occasion of the first settlement, he says, "Now you have come back here you cannot expect to be paid at the same rate of wages you were to have when you were manager at Dargo, therefore your wages must come down again to 25*s.* a week." A dispute arises between them. Arthur Orton says, "Well, you may be very right in what you say, that being here I ought to have no more than the ordinary wages of a stock-keeper, 25*s.* a week, instead of the 80*l.* a year, to

which I was entitled at Dargo, but until you give me notice of your intention to change, you have no right to lower my wages although I am serving here in the inferior capacity of stock-keeper; and now a quarter having expired without such notice, I expect still to be paid at the rate of 80*l.* a year; and what is more, you told me if the cattle turned out to be satisfactorily managed you would give me 100*l.* a year instead of 80*l.*" "Yes," says Mr. Foster, "but that was always on the understanding that you stayed at Dargo, and I was to have an opportunity of seeing that the cattle were managed to my satisfaction; you have chosen to leave Dargo without my consent, and I have allowed you to remain here only because I did not want to turn you adrift, but I am not going to pay you that 100*l.* a year, or even 80*l.*, from the time you left Dargo." They have a dispute about it, and Mr. Foster says, "You had better leave the station altogether." "If so," says Arthur Orton, "you must pay me a week's extra wages for sending me away without notice." This Mr. Foster refused to do. The result is that Arthur Orton leaves, and then goes to Sale, some twenty miles from Boisdale, and at the Court there, which is the District Court, institutes a suit against Mr. Foster to recover the wages at the higher rate, and for the extra week which he claimed to be entitled to. Having brought that suit it was necessary he should state the particulars of his demand, and those particulars show the dates of service in the same way that the Boisdale account shows them. I do not know that it is worth while to trouble you with that statement of particulars, as it quite agrees with the books as to the dates and times of service, the only dispute between the parties being as to the amount of wages to be paid. The suit having been brought, it was agreed that it should be referred to arbitrators, and Mr. Montgomery, a former manager at Boisdale, was asked by Mr. Foster to act as his arbitrator, and did so, and a gentleman of the name of Richardson was appointed as arbitrator for Arthur Orton. They could not agree, and they appointed an umpire, and the umpire having been appointed, the Reference was entered upon at Sale, and the arbitrators and umpire met on the 24th of January, 1859. We have thus a date by which we are enabled to fix how long Arthur Orton remained in this part of the world. The Reference was held on the 24th of January and adjourned until the 27th. On the 27th the arbitrators and umpire met, and the evidence of Arthur Orton, the plaintiff in that suit, was taken. He stated as follows, "Whilst in Moffra Paddock,"—that is where the stock-yard was—"Montgomery, a man named Dunchigo and Fritz Hawsman being present, Mr. Foster said, 'How would it be for you to go to Dargo?' I said, 'Not at all, Sir.' Mr. Foster then said, 'I'll give you 80*l.* a year for the first six months and 100*l.* afterwards if you like to go.' Whilst returning to Boisdale Mr. Foster told me that he had agreed

to give McCole the same, but had not done so on account of his not stopping. I accepted Mr. Foster's offer the same day and signed an agreement a day or two afterwards. I do not recollect the particular terms. On the faith of that agreement I proceeded to work at Dargo. The above conversation took place about one or two days before I signed the agreement, which was on or about the 10th (? 20th) May, 1857. I claim one week's wages for being discharged without due notice. About the 1st July, 1858, I left Dargo. I claim wages up to the 15th September, 1858, because I had no notice of any intention to reduce my wages. About the 15th of October, when I claimed my wages as above stated, Mr. Foster refused, and denied that he had agreed to give them. I told him that I had witnesses, and that Fritz was a witness. He said, 'If ever Fritz gives evidence against me I will discharge him instantly from my service.' Well, the arbitrators and umpire having heard the evidence gave an award on the 27th of January, and that award was in favour of Mr. Foster: they decided that the plaintiff was not entitled to the wages at the rate he demanded, for the reasons that Mr. Foster alleged as the ground for not paying them, so the decision was in favour of Mr. Foster. The result of all this is that Arthur Orton was at Boisdale not earlier than the 15th of December, 1856, entering the service on that date; that he remained at Boisdale until the 12th of May, 1857—a period of five months—that he then went to Dargo and remained there till the 1st of July, 1858—nearly thirteen months and a half—when he again returned to Boisdale and remained there until the 15th of October, 1858—just two months and a half—when he was finally discharged—the whole making a period of twenty-one months, and that he was at Sale waiting the award until the 27th of January, 1859. So much at present for Arthur Orton; we shall have to deal with him more fully hereafter, but for the present I drop him and return to the defendant.

Now, the defendant tells us that he went to Boisdale immediately after he had arranged with Mr. William Foster, and remained in the service there for nineteen months; that he was then transferred to Dargo at an increased rate of wages, the first wages being 30s. a week, and the increased wages at Dargo 40s. a week; that he stayed there eighteen months, and then came back to Boisdale, and remained three or four months. Having made that statement twice over, first in his affidavit and then in his examination-in-chief, on his cross-examination he reduces the time, and represents himself as having been at the one place twelve months and the other fifteen months. But here again, on coming back to Boisdale, he speaks of a short period corresponding with the period which we find Arthur Orton was there. Now by this means the defendant in his statement covers a period of either forty or thirty months, as you take the one

representation or the other. In either case it is a long period of time,—in the one case from three to four years, in the other a period nearly approaching three years—which these services at Boisdale and Dargo are represented as having covered; and as I have said it is essentially necessary that the defendant, in order to carry confidence and to obtain belief, should account for this period. What if it should turn out that he never during the whole of this period was at Boisdale or Dargo at all? Upon this subject we have had evidence entitled to most serious consideration, of the credibility of which evidence you however are the judges. If that period of time is cut away from the defendant, it is obvious that the whole foundation of his Australian story falls to the ground, and you must judge whether with it the super-structure that has been erected upon it does not fall also; and whether, if that is so, a breach is not made in his defence which no art, no ingenuity, and no power can repair. It is therefore necessary to consider this evidence with the utmost attention and care, and I am quite sure you will do so. It rests principally upon the statement of the witness Mrs. McAlister, the widow of William Foster, by whom the defendant states himself to have been engaged, and under whom he represents himself to have served at Boisdale and Dargo. Mrs. McAlister begins by saying that, while Arthur Orton was undoubtedly there during the whole time she and her husband had the management of it, there never was any man at Boisdale or Dargo passing under the name of Castro, which name the defendant tells us he assumed on leaving Melbourne, and bore while in Foster's service. And she says, that not only was that so, but it could not have been otherwise, because she and her husband never went to Boisdale until the month of April, 1856. She tells us she was married to Mr. William Foster, nephew of Mr. John Foster, the proprietor of the station, in the year 1853; that Mr. William Foster was at that time managing the Erinvale Station, a station far away from Boisdale, for his uncle. As regards the year 1854, during which they were still at Erinvale, she says that a sister of hers married Mr. Montgomery—a gentleman whose name I mentioned as having been manager of Boisdale before Mr. William Foster—and that they were married from her husband's house at Erinvale. Having the date of her sister's marriage in her memory, she is quite certain she and her husband were still living at Erinvale. As regards the month of July, 1854, she says that while still living at Erinvale, they received tidings of her brother Dumoulin's death, and she and her husband got on horseback and rode over to the station at which Mr. Montgomery and her sister were living, to communicate to her sister the intelligence of the brother's death; and she remembers, from the date of the death, that that was in the month of July, 1854. They then came back to Erinvale, and she says she is sure her husband took

no journey to Melbourne, and consequently could not have come into contact with the defendant to engage him; that her husband took no journey to Melbourne; that his business relations from the Erinvale Station with any seaport were not with Melbourne, but with Port Arthur, in connection with Hobart Town; that Mr. Foster, the uncle and proprietor of the station, being then living at Hobart Town, it was with him at the latter place that her husband as manager had business relations, sending all the cattle and things in that direction, while he had no business whatever with Melbourne: and she is therefore enabled to state positively that her husband did not go to Melbourne at that period. And not only did he not go to Melbourne, but, according to her, he had nothing whatever to do with the Boisdale Station; he would not, even if he had gone to Melbourne, have taken on himself to engage anybody for the Boisdale or Dargo Stations, because he had not the management of those stations or anything to do with them. It is, therefore, impossible that he could have engaged the defendant in the way represented by him. But, says the learned counsel: "There may be a mere mistake; he may have confounded John Foster the uncle with William Foster the nephew. John Foster may have been at Melbourne, and he may have engaged the defendant, and the defendant may have supposed that John was William." But this explanation is excluded by the statement of the defendant himself. He was asked by Mr. Giffard, "Whom did you afterwards find that the stranger that you met at the auction yard, and who engaged you, was?—I discovered," says the defendant in express terms, "that he was Mr. William Foster, the nephew of Mr. John Foster, a proprietor of great wealth." Such is his own distinct statement; besides which, when you come to reflect on it, the suggestion is quite inadmissible. He could not have been in the service and have settled accounts with a man of the name of William Foster and not have known it was William with whom he was dealing. Every letter that came would be addressed to Mr. William Foster; every account would be with William Foster. A man who was three years with William, the nephew, could not have supposed all that time that he was in the service of John, the uncle. He distinctly states that the man who engaged him, and with whom he got on horseback the next morning, and rode a journey of three hundred miles to Boisdale, the man in whose employment he remained the whole time, was William Foster. But then is this statement of Mrs. McAlister that her husband never went to Boisdale till the month of April, 1856, and consequently could not have engaged the defendant—could not have had him in his service from the end of July, 1854, throughout the rest of the years 1855 and 1856, such as you ought to believe? You saw her; she certainly appeared to be a perfectly respectable woman.

Her present husband came with her, and so far confirmed her, that, having married her after the death of her first husband, I think, in 1862, he said he had known her, and her first husband, William Foster, for some years, having been employed as the sub-manager under the latter, and that during the time he knew the station there was no person of the name of Castro there. Are you to disbelieve these persons? Oath against oath, is the oath of Mrs. McAlister of less value than the oath of the defendant? The learned counsel says, "Yes; there is a reason why you should disbelieve her. She has received 1,000*l.*, and for 1,000*l.* you may buy people and induce them to lay perjury on their souls, though they might not do it without reward." Well, 1,000*l.* does seem a large sum. But that is open to explanation. Mrs. McAlister says, "I refused to come without my husband. I could not go away and leave young children in the charge of servants and strangers. Therefore, if my husband and I were to come together, I required that I should be able to bring my children with me; and the expense of husband, wife, and children coming over here is of course considerable. And we should have had to shut up our establishment, unless we had put it into the hands of persons whom we had to pay. And there is this further to be considered: there is the disruption of all our ordinary relations and pursuits. There is the danger of a voyage for so many thousand miles across the ocean and back again; and the inconvenience and discomfort of coming away from home when we have no object in coming to England. For all that we are entitled to remuneration." There is also this to be said: Witnesses who are beyond the jurisdiction of the Court, whom you can not compel to come, know their advantage, and will drive a bargain with those who want the assistance of their testimony. To Mr. and Mrs. McAlister the result of this trial, the question of the Tichborne controversy, the question whether the defendant shall be acquitted or convicted, except so far as everybody has a natural tendency to desire that justice shall be done—which is one of the inherent instincts of the human mind—are matters of the utmost indifference. "If you want us over in England," say they, "you must pay us for coming." Still it is open certainly to observation that 1,000*l.* is a large sum; but fortunately we have the means of checking the testimony, and can tell by means which cannot deceive us whether the 1,000*l.* the McAlisters are to receive has had the slightest influence, a feather's weight, in determining the evidence they have given. Mrs. McAlister and her husband were examined under the Commission which went out to examine witnesses in Australia on the former trial, and for the evidence so given she and her husband received no further remuneration than the fair and ordinary compensation for time and expenses to which, as witnesses, they were entitled. Now the evidence given

by them under that Commission has been returned; and it was given before they had the most distant idea that their presence would be required in this country, and before they could have any notion that beyond the evidence they gave under the Commission their evidence orally would be required in further stages of the cause. The evidence so given we have here; and therefore when the learned counsel suggested that Mrs. McAlister's testimony had been determined or influenced by the sum of 1,000*l.* which she and her husband are to receive, I reminded him that he had the means of seeing that the evidence given in this Court did not vary one iota, one hair's breadth, from the evidence given before, by looking to see what she and her husband had said when they were examined under the Commission. "Oh!" said the learned counsel, with almost supercilious disdain, "I have not troubled myself to look at it." Well, I did not make the observation, although it almost arose to my lips, "that if that was so, he had signally failed in discharging his duty," because the first thing he ought to have done when it was known that these witnesses were going to be examined, was to look to what they had said on the former occasion, in order that he might see whether they were varying now in any respect from the testimony they had then given. But though the learned counsel had not taken the trouble to look at the former evidence, his learned junior had: it turned out that Mr. McMahon had not failed in the discharge of his duty—and I am bound to say that that gentleman throughout this case has never been wanting in his duty, and what is more, has done that duty like a lawyer and a gentleman, and in a manner perfectly worthy of a member of the English bar—he had not failed in his duty in that respect, and was obliged candidly to acknowledge that there was no variation in the evidence given by Mrs. McAlister on the present occasion from the evidence she gave when examined under the Commission. But independently of that, we have other and still more effectual means of seeing whether Mrs. McAlister is speaking the truth: we have those Boisdale books, and we turn to them with interest to see whether we find in them any account with, or any mention of, the name of Thomas Castro; and we find none. The books are produced for 1854, the year in which the defendant says he went to Boisdale, for 1855, 1856, 1857, and 1858; and in none does the name of Castro appear. Is there any reason to doubt the perfect genuineness of those books and those entries? The learned counsel said, and it was a fair observation to make, that when the book for 1854 was produced it appeared that a series of pages, perhaps some twenty in number, had been cut out of the book, and so they have been. But where have they been cut out of the book? They are cut out at the commencement of the book, before the Boisdale account begins at all; it is only after those pages are gone that

the index begins—the index which is prefixed to the year's account—so that the probability is that, the book having been first used for some other purpose, when it came to be used as the Boisdale account book, the earlier leaves were torn out. The index has suffered, as the books have, from the rough usage books of such sort are more or less subject to. One page of it is gone, but luckily it is the second page, and not the first. The page upon which the name of Arthur Orton should appear is gone, but the page on which the name of Castro should appear is there. It goes down to one-half of the alphabet, and then the next page, which would contain the next series of names, beginning with the later letters, is wanting. But we have the C's all perfect, and there is no Castro. Neither is there any account with Castro in the body of the book which follows after the index. And if it may be said that the 1854 book is so far imperfect, it cannot be so said of the one for 1855. There the book is perfect; the index is perfect, the accounts are perfect. The same is the case with the books for years 1856, 1857, and 1858. I do not mean to say that here and there a leaf may not have got loose and come out, but in no place where you cannot ascertain whose account it contained by reference to the index; and wherever it occurs it has relation to some other man's account, and not to any account with a man of the name of Castro. So that we have it that, while these are books in which every man having permanent employment at that place has an account entered, with an index of all the names prefixed, if you go through the whole series of those accounts, though you find Arthur Orton beginning there at the end of 1856, and continuing there until the end of 1858, nowhere do you find the slightest trace of the name of Castro. Now, when you take the two things together, the evidence of Mrs. McAlister and the books, what is the judgment you form as to the truth of her statement, that no person of the name of Castro was ever heard of at that place during the period she and her husband were there? and still further that no person could have been engaged by, or could have served under her husband, Mr. William Foster, during the period of 1854 and 1855, down to April, 1856, during the whole of the time the defendant says he was engaged in the service and employment of William Foster, and was daily under his direction? If the view you take is that her statement, confirmed by the books, is true, the inference would appear to be that requiring to make up this period, the defendant has taken the incidents of Arthur Orton's service, and by expanding them into a longer duration of time, has adapted them to his own case in order to make up the time he required. For, you will observe that the defendant says he first went to Boisdale, that from Boisdale he was transferred to Dargo with an increased rate of wages, and that from Dargo he came back voluntarily to Boisdale, and there remained for a period of three or four months. That is exactly what Arthur

Orton did. It is proved to demonstration by the papers and books relating to Arthur Orton, that Arthur Orton went to Boisdale, that he stayed a time at Boisdale, that he went from Boisdale to Dargo, his wages being thereupon increased; that he stayed a longer time at Dargo; and that then, within three and a half months of the time when he finally quitted the employment, he came back and stayed at Boisdale. That is exactly what the defendant says he did, only with a difference in point of length of time. To fit his case it was necessary that the period should be longer. You must judge under all the circumstances whether he has, as I say, taken the incidents of Arthur Orton's service, hammered them out, and expanded them into the larger area and longer period of time to suit his case, so as to make up the time during which it was absolutely necessary he should account for himself. In addition to this there is this further circumstance. It had not occurred to me at the moment, but my brother Lush is good enough to suggest it to me—namely, that you have a further coincidence occurring immediately afterwards. The defendant says he went to Sale and stayed at Sale breaking horses for some one there. Now, we know that Arthur Orton went from Boisdale to Sale, and the last we heard of him, when the award was made, was that he was at that time at Sale. Gentlemen, you must judge of these things for yourselves. Do not let me in any way influence you, it is a matter entirely for you—I have brought the facts and the evidence before you, and you must make up your minds upon it. The question is, was the defendant at Boisdale and Dargo under the name of Castro—because it is under that name only that he represents himself to have been there? If he was not, he fails to account for himself during a period of three years, more or less. Then what becomes of his Australian history? Can you believe the rest of it so far as it relates to his character of Roger Tichborne any more than you believe this? If you see any reason to doubt Mrs. McAlister's testimony, if you see any reason to doubt the genuineness of those books and accounts (and I ask you before you decide this case to examine those books most carefully to see whether there is any reason to doubt their genuineness) then of course this cannot be made to press, as it otherwise must do, against the defendant. But if you are satisfied that his statement with regard to Boisdale and Dargo is untrue; if Mrs. McAlister and the books produce a conviction in your minds that he never was there, you must judge for yourselves what is the effect of that on the rest of his history.

So much, gentlemen, for the case as regards Boisdale and Dargo. It is necessary next to follow the defendant in his statement of his various migrations in Australia. Of course it would be very desirable for the defence that we should find consistency in the defendant's statements respecting his life, from the time he left Boisdale and Dargo to the time that we find him coming forward as Roger Tich-

borne. I am sorry to say that I do not find that consistency, and that there are great variations in the statements made at different times; and it really is very difficult to fix time and place, with reference to his whereabouts during this period; a matter by no means unimportant, with reference both to his alleged intercourse with Arthur Orton and to his intercourse with witnesses who have been called, and whose evidence I shall bring under your observation, when they say they saw the two together at one place, or one at one place and the other at another. It is very desirable to fix these particulars as to time and place, if we can, but I am afraid it is very difficult to do so. The first statement made by the defendant was the statement in his affidavit; this is the account he gives of himself after leaving Boisdale for the last time: "I went about twenty miles off to Sale or Flodden Creek on the River Latrobe"—that is the place where the arbitration took place—"where I remained about six months. From that place I proceeded to Norman M'Leod's plantation, on the Mitchell river, about sixty miles from Sale, where I entered into partnership with one Frederick Burrows, and remained there about four months, and was well known to Mr. Smith, of the Lindino Station. I went from that place to the Omeo Diggings, where I remained about 4 months, and from there to Deniliquin, in New South Wales, where I remained for about thirteen months, and from thence I proceeded to Hay, on the Murrumbidgee River, and remained there about 9 months, and from thence I proceeded to Wagga Wagga, and then to Boree and Narranda for about 4 months; and then to Mr. Jenkin's station at Rangus for 4 months, and then to Melbourne with cattle belonging to one Mr. Johnstone; and from there to Bendigo, where I remained for about 2 months; and then to the town of Tumut, where I remained for about 7 months; and from thence to Gundagai, staying there about 1 month; and then returned to Wagga Wagga, where I lived about 4 years." There you see he accounts for the whole of his time, and gives the different places where he passed a longer or shorter time. That is the affidavit. When we come to the subsequent examinations we shall find very material departures from that statement. In the preliminary examination Mr. Chapman Barber asked him, with reference to his proceedings after finally leaving Boisdale: "Into whose employment did you next go?—I was breaking-in horses in the township of Flodden Creek, on my own account. The EXAMINER: That is, 'After the three months expired I then commenced breaking-in horses on my own account at Flodden Creek.' Mr. C. BARBER: How long did you remain there?—About six months. Q. What did you do after that?—I went to the Mitchell Station, on the Mitchell River. Q. In what capacity?—As a horse-breaker, breaking-in horses for Norman M'Leod."

Then he says he entered into partnership there with a Mr. Burrows. "Was that in the same business?—Yes: you must understand I mean by partnership we worked together; there was no legal partnership. Q. After a time you gave up breaking horses, did you not?—Yes, some time after." Then he says he stayed there about nine months; he broke-in horses and remained there nine months. Then he is asked: "What other trade did you carry on in Australia?—Several. Q. Be so good as to mention them?—Put your question, and I will answer it. Q. I do ask you the question; I want to know what trades you carried on in Australia?—I have been travelling with stock; I have been carrying on a butcher's establishment; I have rode Her Majesty's mails. Q. You have drove Her Majesty's mails?—Mr. SERJT. BALLANTINE: No, "rode;" they do not drive there. Mr. C. BARBER: Did you carry on the business of a butcher on your own account?—I did for a short time. Q. How long?—I could not exactly say how long. Q. Cannot you tell how long?—I think seven months in one place and a couple or three months in another. Q. At what places?—At Tumut; I was there seven months, about that; and two or three on my own account in Wagga Wagga. Q. Did you carry on the business of a butcher all the time you were at Wagga Wagga, or only part of it?—Part of it. Q. How long?—Oh, a very short time; I was breaking-in horses for a short time, about a couple of months or so. Q. During all this time were you in good circumstances?—Yes, I was, at least the principal part of the time. Q. Did you ever fail?—Well, I closed my establishment, if you call that failing." Then we have his statement on his examination-in-chief in the Court of Common Pleas. The questions are put by his own counsel, and of course on his own instructions. "Q. When you left Mr. Foster what became of you then?—I went down to the township for a little while, and then went up towards Omeo. Q. What is the name of the township?—Flodden Creek. Q. Is that also called Sale?—Yes, Sale is the district, I think, properly speaking. The LORD CHIEF JUSTICE: 'After I left Mr. Foster I went up to the township of Flodden Creek, in the district of Sale,' for about what time, do you say?—Only for about a fortnight, I think; I am not certain how long it was—about a fortnight or three weeks.. Q. What became of you after you had been to Flodden Creek, or Sale? Where did you go to then?—I went into the mountains again. Q. Where?—I went to the Nicholson first, and then, from there, across to Dargo. Q. What is Nicholson?—A small gold digging. Q. That has nothing to do with the Mr. Roland Nicholson you have been talking about?—No; it is the name of a river, the diggings around a river. Q. Were you at the diggings any time?—No; I think a couple of days, and then I went on to Dargo. The LORD CHIEF JUSTICE: How long?—I

went merely travelling about, my lord. I went from Dargo to Omeo. Mr. GIFFARD: How long were you at Dargo, my lord says?—I might have remained there four or five days, not more. Q. I dare say my learned friends may ask you, but I do not want to go through all this again. Just tell me the next place where you settled any time?—I never settled for any time for some years after that.” Now, he had mentioned a variety of places where he stayed six months and nine months in the statement in the affidavit. Here we have a statement that he never stayed at any place till a long time after. Then the Lord Chief Justice says: “Will you repeat your answer?—I never settled at any place for about three years after that, except on the Omeo, where I was about six months, I think, on and off.” Then Mr. Giffard says: “I ask you when you first went to Wagga Wagga. You say about 1861 or 1862?—Yes. Q. In the interval between your being at the Omeo digging and going to Wagga Wagga, had you been to various places—I do not want to go through them?—Yes; a great many. The LORD CHIEF JUSTICE: Between what?—Mr. GIFFARD: Between 1857, or rather I put it at the time he was at the Omeo diggings until 1861 or 1862, when he went to Wagga Wagga, there were a variety of other places he went to. Q. And you are able to mention those places, if necessary?—Yes, quite. Q. Had you anything to do with the mail at any time?—I had. Q. What did you do with the mail?—I used to run the mail. Q. You used to run the mail yourself?—Yes. Q. From where to where?—From Borree to Narrandra.” Then the Lord Chief Justice says: “What is that distance?—It is about 74 miles, I think.”

On cross-examination he is taken through the same series of questions, and then he gives again a very different account. “Now, just tell me as clearly and as shortly as you can, when you landed at Melbourne in 1854, as you say, give me an account of the places you went to?—Different places I went to.” Then he gives an account of being at Boisdale and Dargo, which I do not want to go over again, the substance of which is, that instead of being eighteen months at the one place and nineteen months at the other, and then three months at the former, he brings it, as I have told you, to twenty-seven months as regards Boisdale and Dargo, and a period of from two to three months after his second coming to Boisdale. Then coming to his wanderings afterwards, the Solicitor-General says: “That brings you to 1857? Where did you go from 1857?—I went to Flodden Creek for two or three weeks; it is called Sale; Sale is the district, and Flodden Creek is the name of the town. Q. What did you do there?” In his former examination he had said he had broken horses there—“I did not do anything. Q. Nothing?—No; I was doing nothing there. Q. What did you

do next?—I went up to Stratford.” Then the Lord Chief Justice says: “How long did you stop at Sale, or Flodden Creek?—The SOLICITOR-GENERAL: Three or four months he said, my lord. The WITNESS: No, three or four weeks.”—The Solicitor-General was right; he had said he had stayed there three or four months breaking horses. “Q. You went then to Stratford?—Yes. Q. What did you do at Stratford?—I was doing nothing there; I stayed there two or three days. Q. What did you do then?—I went to the Mitchil. Q. What did you do then?—Drove in a few horses there. Q. Who for?—For M^rLeod. Q. How long were you there?—Over two months, I think. Q. From there?—From there I went to the Nicholsons’. Q. Who were you there employed by?—I was not employed by anyone. Q. What did you do?—At Nicholsons’? I did not do anything. Q. How long were you there?—I was only there a few days, I think.” Then he says he went to Dargo across the mountains to Bruthen and Omeo. Then he is asked; “What did you do there?—I drove in some horses there. Q. Who for?—For Joseph Day. Q. Where did you go from?—And also some for Thomas Sheen. Q. What did you do then?—I remained on the diggings some time, knocking about, one thing and another. Q. Were you ever digging yourself?—Well, no; not to say regular digging. Q. At the Omeo diggings this was?—Yes, at the Omeo. Q. How long were you there?—Backwards and forwards I was there about seven months, I think. Q. That would bring you to the end of 1858 or 1859?” “No,” he says, “to 1858. Q. The end of 1858?—Not the end. Q. About the middle, then; I want to know from you?—Yes; about that. Q. Where then?—I was roving about in different parts of the country. Q. For how long?—Up to 1860, I think.” Then the Lord Chief Justice says: “You say roving about in different parts of the country; had you any occupation or means of earning a livelihood?—I had no occupation. I was buying a few horses at one place, and selling them at another.”—The SOLICITOR-GENERAL: “And in 1860?—I went to Deniliquin. Q. At Deniliquin, how long did you stay there?—I think about twelve months. Q. What were you doing there?—I was with Burrows there. Q. What were you doing?—I was breaking-in horses for him, and looking after his butchering establishment. Q. That would bring you to 1861?—Yes, it was 1861. Q. What did you do then?—I went to stay on the Murrumbidgee. Q. How long did you stay there?—I cannot speak to a month. Q. I am not asking you?—About twelve months, I think. Q. What were you doing there?—I was with a man of the name of Ward. Q. Doing what?—Looking after his establishment. Q. In what capacity?—Looking after his cattle.” Then the Lord Chief Justice says: “Who for?—John Ward, my lord. The SOLICITOR-

GENERAL: That is, his cattle?—Yes, and he also slaughtered.

Q. Did you slaughter?—Sometimes, yes. Q. That would bring you to 1862 or 1863?—The latter end of 1861. Very well.

Q. Then where did you go?—Then I commenced running the mails. Q. Where from?—From Boree to Marandra. Q. How long were you there?—I was three months on that; I had been up to Wagga Wagga and returned. Q. Where then?—I went to Wagga Wagga again. Q. What did you do then?—I did not remain there then. Q. What was your next permanent employment?—I was on the Tumut; no, I was at Gundegai. Q. With whom?—With John Jenkins. Q. What did you do for him?—I was stock-keeping there; not long, only six weeks or a month. Q. And then?—I went from there to Tumut. Q. And from there?—From there I went to Yarra-Yarra. Q. What did you do next?—I was breaking-in horses there. Q. For whom?—For James McLaren. Q. And after that?—After that I took the horses out and drove them down the Murray. Q. Where to?—To another station Mr. McLaren had there. Q. How long were you in Mr. McLaren's employ altogether?—Not long, about a little over two months, I think. Q. Where did you go to then?—I went back to Wagga Wagga. Q. What year would this be?—That would be 1862. Q. How long did you stay at Wagga Wagga then?—I stayed there until I left.”

Now, the discrepancy between those statements is that in one he says he had no settled occupation and was roving about the country, whereas in the other he gives a detailed account of the various places he was staying at, and of the persons by whom he was employed. I think it may be taken as a summary of the last statement he made on cross-examination, that he was at Flodden Creek, in Sale district, three or four weeks doing nothing. He was then at Stratford for three or four days; he then went to Mitchil and drove a few horses for a Mr. McLeod, staying there for two or three months. He then went to the Nicholsons' and was only there a few days. Then he crossed the mountains to Dargo, and from Dargo to Bruthen; and from there to the Omeo diggings, and drove some horses there for Joseph Day, and the same thing for Thomas Sheen. He remained at the diggings for some time “knocking about doing one thing and another,” not regularly digging himself, and he was backwards and forwards there about seven months, which brings us to 1858, so that he was roving about in different parts of the country, having no settled occupation, buying a few horses at one place and selling them at another. Next he is at Deniliquin, and stayed there about twelve months with Burrows, breaking in horses and looking after his butchering establishment, where he was found under the name of Castro by Mr. Millar in 1860. Therefore we may assume that from 1860, when he was at Deniliquin, he passed by the name of Castro;

whether he did so before is a matter open to doubt. Some of the witnesses say he did; of the value of their evidence you will have by-and-by to judge. Next he is on the Murrumbidgee river, he thinks for about twelve months, with a man of the name of Ward, looking after his cattle and sometimes slaughtering. That brings it down to the latter end of 1861. Then he commenced running the mails from Boree to Naranda, which he did for three months. Then he went to Wagga-Wagga but did not remain. His next employment was at Gundagai with John Jenkins, stock-keeping for six weeks or a month. Then he was at Tumut, and then at Yarra-Yarra in the employ of James McLaren, breaking-in horses. Then he was driving horses down the Murray to another station which Mr. McLaren had there. He was in this employ for a little over two months altogether. Then he went back to Wagga-Wagga, in 1862, and there stayed until he left. Now that certainly is a very wandering and strange life. All these details are essential when you come to consider how far you can believe that Roger Tichborne, with all the advantages which rank and fortune had gifted him with, would be leading this life; breaking-in horses, slaughtering, first for one man and then for another, with no settled occupation. I should observe, furthermore, that in these details, the year 1859 remains wholly unaccounted for. He does not touch satisfactorily on that, and that is the year in which you will see presently that according to his account, he and Arthur Orton are always together, and the year in which, if any of those things ever took place, which he declined to answer about, lest, as he alleged, he might criminate himself, those things must have occurred. The probability is that if Arthur Orton and he are not one and the same, that is the time at which such things may have happened. In 1862 we find him finally settled at Wagga-Wagga—I think he says he got there at the latter end of the year—and in the early part of the year 1863 we find him in the employment of Mr. Higgins, and from that date the Wagga-Wagga events become very material and important in the development of this case.

Gentlemen, we have thus far followed the track of the defendant's various migrations in Australia by his own account—(we have no other information)—from the time of his leaving Boisdale to the time of his finally settling at Wagga-Wagga, which appears to have taken place about the end of 1862, or at all events, the beginning of 1863, and there he settles down, going into the employment of a Mr. Higgins, who carried on the two-fold business of an hotel keeper and a butcher: and the defendant becomes his foreman, with one or two men under him, sometimes slaughtering and at other times doing the general business of a butcher's foreman. He was engaged in this way in the year 1863 and part of the year 1864, and it was during

the year 1864 that a witness saw him—a witness whose evidence, if you feel that it is trustworthy and that you can rely upon it, is certainly very material—I mean the witness Pettit Smith.

Mr. Pettit Smith appears to have held one or two offices of trust in that part of the country, and apparently was a respectable person and gave a decent account of himself. He went to the colony with the view, in the first place, of becoming a sheep-farmer; he was articulated to some sheep-farmer for the purpose of learning the business; but it did not suit him, and then he became the manager of a store at Wagga-Wagga. He seems to have been a man trusted by the authorities: we hear he was at one time clerk to the magistrates; he also acted for the assignees in the court of bankruptcy; he was employed by them; he was employed to make up the electoral roll; and was made honorary secretary to the Institute at Wagga-Wagga when that Institute was established. The learned counsel for the defendant, dissatisfied with his evidence, made some reflections upon him on account of his various employments and change of employments; you must judge for yourselves whether you see any reason to disbelieve him; if you do not his evidence is certainly very important. He says he had occasion to go into Mr. Higgins's butchering establishment, and he found it kept in such a nice manner, the meat cut up in such artistic fashion, that he was very much struck by it as a thing he was not used to see in the colony, where they do things in a rough way, and where from the superabundance of animal food, they cut up the portions of an ox or sheep with much less regard to nicety than is done here. And he complimented Castro on the way in which the shop was kept and the meat cut up, and he receives this answer: "Well, if I do not know how to cut up meat I do not know who should, as I was apprenticed in London, and cut up for Newgate Market." That would be a rather startling answer to come from Roger Tiehborne, and which, as coming from him, certainly could not by possibility be true. Then, the witness says he had occasion to call again, and he gives us this account of what passed. "Referring to the conversation we had before, I said, 'By the way, you were telling me the other day you knew Newgate Market. Do you know the Kings of Newgate Market?'" Now the Kings were connexions of Mr. Pettit Smith, a relation of his having married one of them. So he says, "Did you know the Kings of Newgate Market?" Says Castro, "Well, there were several Kings in the market." "But did you know John and Henry King?" "Oh yes, they were two brothers, but they were not in business together." "I said, 'Can you describe Henry King to me?' He said, 'Yes I can,'" and the witness says he went on and described him as a man of about the witness's height, with dark curly hair and black whiskers, "and that his stall was the second

or third down from Newgate Street." Says Mr. Smith, "That is a pretty accurate description; what sort of a man was John King?" And the defendant described him as a big stout man, weighing about fifteen stone, and said he kept two stalls in the same passage with his brother in the market, and had cellarage underneath. This witness was himself well acquainted with the Kings: John King had married his aunt, his mother's sister; and he had a thorough knowledge also of their place of business, and he says this account was correct, the personal description of the two brothers was correct, and the statement of the defendant as to their business and place of business was correct. He was quite right in saying the two brothers were not in partnership, and that they had separate stalls, and was right as to the locality of those stalls, and also as to the fact that one of those two brothers had cellarage under the market, which he used for the purposes of his business. Is the evidence of this witness true or not? If it be true, what is the consequence that necessarily flows and results from it? Could Roger Tichborne by any human possibility have possessed this knowledge?

We have traced with careful accuracy and minuteness the history of Roger Tichborne's life. We know where he was placed for his education: we know where he was quartered when in the army. How could he have acquired a knowledge of all these details about Newgate Market? Could he have known those two brothers of the name of King, who had stalls in the market, or the locality of their stalls, or the other circumstances? Either we must reject the evidence as altogether unworthy of belief, and so stamp the witness with the brand of falsehood upon oath in a matter which does not appear to concern him—and if he came to speak falsely it must be implied he had some unworthy or sinister motive in doing so, and we have no facts to justify that suspicion—or, if you give credit to the evidence as worthy of belief, we must ask ourselves whether it is possible to reconcile this intimate acquaintance with Newgate Market, in which Roger Tichborne probably never set his foot, with our knowledge of him, and bring ourselves to the belief it was Roger Tichborne who went through this conversation. I am not now on the subject of the identity of the man who held this conversation with Arthur Orton; that I reserve entirely for future consideration. I am simply putting the question—whether he was Arthur Orton or whether he was somebody else—are these facts, are these details such as could possibly have been within the cognisance of Roger Tichborne? Unless, indeed, you adopt the view which the learned counsel for the defendant more than once threw out, that Arthur Orton and the defendant having been constantly in companionship for a very long period of time, out in the forests of Australia, Roger Tichborne, then passing by the name of Castro, had become familiar

with all the details of Arthur Orton's life, and carried them about in his head. But even then I do not see why he should assume to himself the character of Arthur Orton so far—not, indeed, as to say he was Arthur Orton—but to assume the character of a London butcher which Arthur Orton had been—of a man who had been employed at Newgate Market, and who on that account knew how to cut up meat as well as anybody in the colony, having been brought up to the trade of a butcher. Nor does it turn on the conversation alone. Mr. Pettit Smith, on going into the shop, is struck by the difference between the neat and artistic way in which the butcher's business is done there, as contrasted with the rough way in which it is generally done in the colony. Why should Roger Tichborne have exhibited—one cannot help asking one's self—a greater dexterity, greater knowledge of the business, than any other man who happened to have taken to it in the rough way in which it was done in Australia? You would expect that a man who goes to Australia, never having been apprenticed or brought up as a butcher, never having had the opportunity of seeing the way in which the work of a butcher is done, if he took to butchering, would do things roughly, as they do in the colony; and not having gone through an apprenticeship to the trade, would adopt the rough mode of doing it, instead of the neat and business-like manner in which it is done in this country. I cannot help asking, in addition to the question I put before on that point—what should make Roger Tichborne take to that particular business? what should enable him to perform the different parts of that business in a workmanlike and skilful manner, as if he had been brought up to it?

A JUROR: The learned counsel attributed that to an early fancy for dissecting cats.

THE LORD CHIEF JUSTICE: If he did I do not think it is worth our while to dissect that argument. It is ludicrous on the face of it.

In the course of the year 1864 the defendant thought proper to set up in business for himself. He took a shop, and some other premises not very far off from it as a slaughtering yard. He set up for himself; the business did not prosper; he had no capital to carry it on with, and every business, to do any good with it, needs the means of starting in it; so after a time he got into difficulties. He could not pay his rent: an action of ejectment was brought against him, and he was turned out. During the action Mr. Miller, who was at that time carrying on business at Wagga-Wagga, as well as at Albury and some other place, the name of which I forget, acted for him. We had Mr. Miller before us. The defendant was obliged to quit

those premises, and then he appears to have returned to the employment of Mr. Higgins, and continued in Mr. Higgins' employment until the latter part of the year 1865, before which, however, many events took place, which it is very important for us to go through, and for you afterwards to bear in mind.

At the beginning of the year 1865, while he was still in the employment of Higgins, an event of considerable importance took place, namely, his marriage. On the 29th of January, 1865, he married a person of the name of Ann Bryant: and the marriage becomes a circumstance of considerable moment in this case in more than one respect. I do not wish to say a word that could, if it reached the ears of the defendant's wife, give her a moment's pain or discomfort. Whatever may be the result of this inquiry, whatever may be your opinion about it, she is a perfectly unoffending person in the whole matter: and it is perhaps very hard that her name should be in any way brought forward: and yet it is impossible to overlook the particular circumstances connected with this marriage. We know from the defendant's own statement that the wife was a domestic servant. We know she was perfectly illiterate, could neither read nor write, and to the marriage register affixed only her mark. We know something else, which I do not wish more particularly to refer to. I will only ask you to look at the Wagga-Wagga will when I bring it to your attention presently, and her description in the marriage register. I advert to this circumstance only for this purpose, that I think it is right that you should consider how far it is likely that Roger Tichborne would have formed such a union. Roger Tichborne, if still living, would have been, of course, perfectly aware who he was. No reason is alleged for supposing that he had at that time abandoned finally and for ever the intention of returning to his native country and resuming his proper station; and he must have known that, if he ever did so, the marriage he was forming would place him in a considerable difficulty, because he would know that he could not claim for his wife the position the wife of Sir Roger Tichborne ought to occupy, I mean as regards society and intercourse with persons of equal rank and station. I do not find that there was any romantic attachment which would induce a man, in spite of all such objections, to say, "I do not care; I love this woman with so intense a love, that I will forego society, and give up all social pretensions for her sake;" and I say so, because we shall find as we go on, that when the defendant decided on coming to England to assert his claim, he for a long time thought of leaving his wife behind in the colony, and keeping the fact of his marriage entirely secret. In addition to which, we know he told Mr. Gibbes, when he made up his mind to come forward, how much he regretted having married beneath him, because he knew the obstacles that it

would throw in his way. Therefore, while admitting from the experience of past and present times, how much men will do for women they love, I still say that it is one of the circumstances which ought to be taken into consideration as affecting the probabilities of this case, that we find the defendant forming, a few months only before he is induced to come forward, a union apparently incompatible with his position, if his position had been that of Roger Tichborne.

But that is not all. We must next consider where and how that marriage was celebrated. Roger Tichborne was the heir and representative of one of the old Roman Catholic families of this country: and although I cannot say that I think he had any very great veneration for the priests of his church, yet he more than once affirms that he always stood up for his own religion whenever the occasion called for it. And there certainly seems no reason to believe that Roger Tichborne was not, as far as he could be attached to anything, attached to the Roman Catholic Church, and a real and thorough Roman Catholic. Now if there is anything that a Roman Catholic would be likely to shrink from, it would be, I take it, the having the marriage ceremony, which with Roman Catholics is a sacrament, performed by a dissenting minister in an ordinary habitation, and not in a church belonging to his own faith. Yet we know that the defendant—now calling himself Roger Tichborne, but then going by the name of Castro—was married to his present wife in a private house, and had the marriage ceremony performed by a member of the Wesleyan congregation. Any Roman Catholic can judge whether that is a thing likely to be done by a member of their church. What is the explanation? Was there no Roman Catholic church or chapel at Wagga-Wagga? Was there no Roman Catholic priest who could perform the ceremony, and unite these two persons in holy matrimony? The defendant does not say so; but he gives two reasons, not quite capable of being reconciled with one another, for having this marriage ceremony performed by this dissenting minister. The first is that he was not on good terms with the Roman Catholic priest. I do not know that that is a reason why, if a man wanted to be married—being a Roman Catholic, and looking on marriage as a sacrament which ought not to be defiled, as they would esteem it, by being solemnized by a heretic minister—he should, because not on the best terms with the priest of the church to which he belonged, be married by some minister of another church. Take the case of an English parish church. You happen to have some little difference with the minister, but you want to get married, and you want to get married at that particular place, would you think it necessary to go somewhere else, because you knew the minister who would have

to perform the ceremony was not on the most friendly terms with you?

But he gives another reason. "The truth is," he says, "I knew the priest would expect that before I asked him to perform the sacrament of the marriage ceremony, I should go to confess to him, and I could not go to confession without avowing who I was; because to have given a false name would have been in itself a sin, and would have been a thing which, if I went to confession, I should be bound to confess, and I did not at that time wish it to be known who I was." We had some clerical evidence on that subject; and as far as I could make out (not very clearly perhaps), if a man is going by an assumed name, not for the purpose of fraud, not for the purpose of imposing on the woman whom he gets to marry him, but simply because he has social reasons for assuming the name, and intends to continue to go by that name—there would not be any sin in the concealment, and he would not be obliged to reveal the fact. However, the defendant may have thought it was so, and on that account have refrained from asking the priest at Wagga-Wagga to marry him lest he should be called on to say who he was.

Now comes another, and to my mind, a still more remarkable thing. Roger Tichborne, when he took a wife, chose to take her from a very humble sphere of society; but being his wife, she was as much his wife as if he had married a woman of rank and title; and, one would suppose, if he had any secret as regards his social position, would become the recipient of that secret? Would you not have expected if Roger Tichborne thought proper to marry Ann Bryant, a domestic servant, that he would have said to her (if he had not told her before), "Now we are married, I ought to have no secret from you: I am not Tom Castro, Higgins's man, as you believe me to be; I am Roger Tichborne, the heir to a baronetcy and to a fortune of 20,000*l.* a year." But he tells her nothing about it.

There is another fact connected with this marriage, which is also deserving of observation. Roger Tichborne, on the 29th January, 1865, was 36 years of age. I am not now on the Arthur Orton case, but still I must remark, in passing, that Arthur Orton at his last birth-day would have been at that time 30 years of age, he having been born in the month of March in the year 1834. At his last birth-day in March, 1864 (not having then got to March, 1865), he would have been 30. It is a remarkable fact that at that marriage the defendant stated his age to be 30 years, and not 36, as Roger Tichborne's age would have been. There are men who are weak enough to take off a year or two, especially if they wish to stand well with the ladies; they take off a year or two from the burden of their years. But a few men only are silly enough to do this; it is a peculiar privilege we allow to the fair sex alone. They may take off a

few years, and when they get to a certain age they remain stationary. But it is not likely that a man would take off six years from his age, especially at the age of 36.

Before I pass from the marriage, I should mention that in the register of that marriage, when the defendant was called upon to say who and what he was, he represented himself not only as Castro in point of name, but also that his native country was Chili, and that his father and mother were Chilians. That, of course, was untrue—untrue, let the defendant be who he may. Of course, Roger Tiebhorne was not born in Chili, and his father and mother were not Chilians. What the purpose of that representation could be I do not know. The defendant had adopted the name of Castro, and Castro is a Chilian name; but why he should go on to say that he was a Chilian by birth, and that his father and mother were Chilians, I cannot conceive; unless, indeed, it was to identify himself more completely with the character of Castro, and disconnect himself from any name he had previously borne. He is asked: “Did you describe yourself as having been born in Chili, in South America?—I think I did.” “Did you leave your wife under the impression that all you said as to who you were, and what you were, was true when you married her; that all this was correct, that you were born in Chili, South America, and your father and mother were Thomas and Mary Castro?—Well, I believe I did up to the second marriage.”

Events march on, and the next event to which I have to call your attention is what has been called the “Richardson Letter;” and this is one of the most remarkable circumstances that have come to light in the course of this case. In the month of April, 1865, the defendant goes to a schoolmaster in Wagga-Wagga, and asks him to write a letter for him. The schoolmaster writes the letter. You would have thought that when the letter was written, as it was to bear the name of Thomas Castro, the defendant would have signed it himself. He does not sign it, but gets the schoolmaster to sign it in his name. It was a letter addressed to a Mr. James Richardson. Mr. James Richardson had carried on the business of an outfitter in the High Street, Wapping, two or three doors from the establishment of old Orton. He was a man well known in Wapping; he had the confidence of the parishioners, and was for many years treasurer of the parish; and was acquainted with everybody, and I dare say with everybody’s affairs, throughout the parish of Wapping; and to this man the defendant causes the following letter to be written. It is written on the 13th of April, 1865, from Wagga-Wagga, to “James Richardson, Esquire, 72, High Street, Wapping.” “Sir, although a perfect stranger, I take the liberty of addressing you, and as my residence at present is in this distant colony, I trust you will pardon the intrusion and oblige me by granting me the favour I seek. I

believe there was some years ago living in your neighbourhood a person named *Orton*, to this man I wrote several letters, none of which has ever been answered. The letters are of importance to *Orton* or his family, and to no other, so that I must conclude he has not received them as I am certain they would be answered; besides as this district is or lately was in a very disturbed state through a lawless set who styled themselves bushrangers, and who respected neither life nor property, I conclude my letters fell perhaps into their hands. If *Orton* or his family live near you still, or if you have or can give any information respecting them, I shall feel ever grateful. I beg to say here, with pleasure, that one of the most notorious of the bushrangers has fallen by a rifle ball, and that on the news of his death and doings being properly chronicled, I will send you the paper containing such. I trust you will not fail to oblige me by sending any information whatever respecting *Orton* or his son *Arthur*—plainly distinguishing between the *Orton* to whom the letter in its earlier portion referred and his son *Arthur*.—"I am, Sir, Your obdt. obliged servant, Thomas Castro. Should you write, Address Thomas Castro, care of R. I. Higgins, Esq., Australian Hotel, Wagga-Wagga, N. S. Wales." Distinguishing, as I say, between the father and the son.

Do me the favour to observe the language: "I believe there was some years ago living in your neighbourhood a person named *Orton*, to this man I wrote several letters, none of which have ever been answered." Now it was very natural that the defendant, dictating this letter, which he undoubtedly did dictate, and asking a person of whom he knew nothing to give him, or procure for him, information respecting a person who lived near him, having that to communicate to him which would be of importance to him or his family, should say he had written to the person in question. Of course, if you have information to give to a man which is important to him or his family, you address the man himself; you do not write to somebody else who happens to live near him to obtain the information about him without having first written to the individual himself; if thereupon you cannot get any answer, you may have recourse to some other means in order to get the intelligence that you require; but you first write to the man himself; and, therefore, in this letter it is stated that the professed writer had written to the individual about whom he wanted information, and had failed to get an answer. Therefore the explanation is given: "I have written several letters; postal communication in this country has been rendered unsafe by those lawless fellows, the bushrangers, who stop the mails and take the letters, so that letters do not reach their intended destination; and so that may account for my letters not reaching this *Orton*, your neighbour. I rejoice to think that that state of things has now been put

an end to, because somebody has had the great merit of shooting one of those fellows a few days ago by putting a rifle ball into him." To be sure, additional security having been obtained from that circumstance, a letter addressed to old Orton would be as likely to find him as it would be to come to the hands of Mr. Richardson next door. Either the letter would fall into the hands of the bushrangers, and then it would not reach the hands of Mr. Richardson for George Orton; or if it did not fall into the hands of the bushrangers, it would reach Orton without being addressed to Mr. Richardson.

But you will be surprised to find, when I read the cross-examination of the defendant, that he had never written a letter to old Orton at all. He is asked: "What made you, on the 13th of April, 1865, so very anxious to ascertain anything about Orton or his son Arthur?—Well, I was very anxious at that time to know where he was, and I had two addresses on a bit of paper which he left before he went away." Upon this letter, when produced by Mr. Richardson, there was written "Hobart Town, 1854, 9th of June," and we know now what that meant. That was the date which, upon his seeing old Orton, he was told was the day on which they had last received a communication from Arthur. "What was it that made you on the 13th of April, 1865, at Wagga-Wagga, so anxious about Orton and his son Arthur." Says the defendant, "I wish to explain first that the dictation of that letter is not mine—that I merely asked a schoolmaster to write and ascertain whether anything had been heard of Orton, as I had not seen him for two or three years."

Now, I am not sure whether I ought not to pause here, and place before you, at this stage, the defendant's account of his intercourse with Arthur Orton. If I do not do it now I will do it presently, because places and dates which he gives with reference to his acquaintance with Arthur Orton after he left Boisdale, will in the course of this inquiry become material. But I postpone it for the moment. Assume, if you please, that he had seen Arthur Orton, and had been with him on various occasions after the time he left Boisdale; that during the year 1859, according to the defendant's account, they were hardly ever separated; that in 1860 he lost sight of him, but saw him again in 1862, and at the date of this letter in 1865 had not seen him for two or three years previously. He goes on: "I wish to explain first that the dictation of that letter is not mine—that I merely asked a schoolmaster to write and ascertain whether anything had been heard of Orton, as I had not seen him for two or three years. Q. To write and ascertain whether anything had been heard of Orton there, in England, whether he had returned or not—as you had not heard from him for two or three years?—Yes, that is the lapse of time I gave you." Then the passage which I read is repeated, "If you have or can give any information respect-

ing them I shall feel for ever grateful":—Says the defendant, "As I said, the letter was not my dictation at all. Q. Did you read it before you sent it?—Probably he read it over to me—yes. Q. What did that mean? What was it would make you feel for ever grateful for any information respecting Orton and his family?—I did not know about his family; it was only about him. Q. Cannot you tell me what you wanted? This was read over to you, you say, probably?—Yes, probably it was. Q. What was it that would have roused your sense of gratitude so much, in April, 1865, by the receipt of any information about Orton or his family?—You see I did not dictate that letter at all; it was a schoolmaster's. Q. So you have said; and I have asked whether it was read over to you, and you said probably it was.—Yes, it is likely it was. Q. Written by your dictation; what made you say you would be very grateful?—I do not know that I was grateful at all, it was put in as a matter of course. Q. What? Pure Castilian? You mean that was a flourish?—I did not mean it was Castilian. Q. No, you meant it as a flourish, did you?—I do not know, I am sure; it was the schoolmaster wrote, not me; he ought to be a better judge of what he put in. Q. What made you anxious to know at that time where Arthur Orton was, about Orton and his family?—Well, I was anxious to know where he was. Q. If you directed information to be obtained about Arthur Orton, it is curious there is not a single syllable said about Arthur Orton till the very last words of the letter?—Still, that is what I told him to write about. Q. It is all about Orton and his family; and at the very end it says, 'Orton or his son Arthur:' it is singular, if that was read over to you why that should be: Can you explain it? How came you to let that letter go in that shape?—I do not know; I do not suppose I took much notice what shape it was in. Q. Had you seen any of the family at that time named Orton except Arthur?—No. Q. Was there anything at that time interesting or important to Arthur Orton that you wished to communicate?—Yes, there was. Q. What was that?—I shall decline to answer that question. Q. But I am afraid I must press you for that: What was it that was so important to Arthur Orton?—I must decline to answer that question." Then the Lord Chief Justice interposes and asks "Why?" He answers—"It might have a tendency to criminate myself." Then there ensues a discussion on the privilege of a witness with regard to such a question, and then the cross-examination is resumed. "I ask you, on your oath, do you mean to say that answering the question that I put to you would tend to criminate yourself?—On my oath it would. Q. Criminate may have various senses, and I have a right to ask, upon your oath, do you mean to say that this would tend to prove that you had been guilty of a crime punishable by law?" Up jumps my brother Ballantine, and says, "Do not answer that question"—a similar

objection had been raised before—"MR. SERJT. BALLANTINE: It is the same objection. The LORD CHIEF JUSTICE: That is what I understand when a man swears on oath it will have a tendency to criminate himself, that is the popular understanding." Then the Lord Chief Justice says: "I ought to tell him that putting it on that ground is producing an impression that it would criminate himself, and render him liable to criminal proceedings. You may have, if you please, the advice of your counsel on this matter, and your language will be so understood in that sense. That is the ordinary meaning of the words. It is right that you should understand, before you protect yourself from answering the question, what the effect of your objecting to answer is on that ground." Then the Solicitor-General says: "I will just ask you on this letter. 'There was, some years ago, living in your neighbourhood, a person named Orton. To this man I wrote several letters, none of which has ever been answered.'" Then says the witness, "Well, I have never written any letters to him. Q. Then is that untrue?—I suppose it is; I certainly had never written any letters to him before. Q. How came the schoolmaster to write that?—I can't say I am sure, how he came to write that. Q. You told me it was written by your direction.—It was merely the schoolmaster was sitting in the office, and I asked him to come in and write it. Q. And it was probably read over to you?—Well, I should think it was. Q. Where upon earth did the schoolmaster get the information that he was to write that you had written several letters to a man named Orton, in the neighbourhood of High Street, Wapping, none of which had ever been answered?—I do not remember that being written at all. Q. Will you swear you did not?—Yes, I will swear I did not. The LORD CHIEF JUSTICE: Just before you answer in that way, bear in mind that it is not simply in one part of your letter, but the whole substance of the body of the letter has reference to letters you have written, and it is mentioned three times. 'I believe there was, some years ago, living in your neighbourhood, a person named Orton. To this man I wrote several letters, none of which has ever been answered. The letters were of importance to Orton or his family, and to no other.' Then it refers to the lawless proceedings, and then, 'I conclude the letters fell into their hands.' Therefore in three places letters are mentioned, and are mentioned with reference to the substance of them: do you mean now you never wrote to Orton?—No; I think on reflection I must have written. The SOLICITOR-GENERAL: You must have written on reflection?—I have no recollection of having done it, but there is no doubt from the tendency of that letter I had done so. Q. The tendency?—When Orton went away he left two addresses with me. The LORD CHIEF JUSTICE: The letter was read more than once, and you swore positively 'I had never written any letters'?—If I did

so, I did so purely from my thoughts, my Lord. The SOLICITOR-GENERAL: Do you remember what the letters were about?—If I wrote they were to Arthur Orton himself. But,” says the Solicitor-General, “you say to Orton, distinguishing between Orton and Arthur Orton? Yes, not to anyone else I certainly should not have written.” Then the Solicitor-General reads the letter again, and the last part of it, “I trust you will not fail to oblige me by sending any information respecting Orton or his son Arthur.” “Well,” says the defendant, “I can’t say I am sure what I did then, and I am not aware that I did do it. Q. Do you mean that you could have written letters to Orton’s father, all important to him and his family, and to nobody else, without remembering it, without knowing it?—No, I never wrote to Orton; if I wrote to anyone it was to Arthur himself. Q. But you say the contrary here: ‘I wrote to Orton several letters; the letters were of importance to Orton. I conclude my letters fell into the hands of the bushrangers. Will you oblige me by sending me any information whatever respecting Orton or his son.’ Mr. SERJT. BALLANTINE: Arthur! The SOLICITOR-GENERAL: His son Arthur. He distinguishes between the father and the son, and the whole of the letter is written about the father. Q. How do you explain that?—I cannot say how I explain it at all, inasmuch as I did not write the letter. Q. Can you explain it?—No, I cannot. Q. What, have you forgotten the subject of that?—I do not know that I have written any; I have no recollection, but that would imply as if I had.” Then the Solicitor-General, following that policy which seems very frequently to have led him to prolong the cross-examination, goes on pressing him on the subject. The defendant says: “I did not write that letter. Q. It was written by your directions and read over to you?—Well, I don’t know that it was: the probability is that it certainly was. The LORD CHIEF JUSTICE: The whole substance of the letter, as it strikes me at present—it is right to call your attention to it—and the reason of your writing to Richardson is, because you had written a letter to Orton and had not been answered. This is the substance of the letter as appears by the expressions. The SOLICITOR-GENERAL: Tell me what was the subject of them?—The subject of what? of the letters?” Then the Lord Chief Justice says: “At present he has not said that he did write: he has said that he did not. The SOLICITOR-GENERAL: Do you mean to deny that you wrote letters after that?—I have no recollection of having done it; if I did, I could only have one reason for writing, and that was to ascertain his whereabouts.” Then the cross-examination goes on at very great length: I am unwilling to weary you with it; it is all to the same effect, and amounts to a complete avowal that he never wrote a single letter to old Orton, and that this statement was a falsehood. He seeks to throw it on the schoolmaster, but you cannot possibly imagine that.

“How came you to write to Mr. James Richardson at all?—Because it was the address given me by him. Q. By Arthur Orton?—Yes. Q. ‘Mr. James Richardson, 72, High Street, Wapping;’ when did he give you that address?—When he left me at Gundagai.” He used it, he says, for the purpose of writing to Mr. Richardson to obtain information about Arthur Orton. The question that presents itself is whether that statement that Arthur Orton had given him this address for the purpose of writing for this information is correct: it is one on which you must exercise your own common sense. Why should Arthur Orton give to the defendant the address of Mr. Richardson? The defendant knew perfectly well the address of Arthur Orton’s father, either as being Arthur Orton, or as having received it from Arthur Orton, because otherwise he could not have known that he lived near Richardson. But is it likely that Arthur Orton, who had long before ceased to hold any communication with his family, should have given his father’s address to the defendant, apparently without any conceivable motive or purpose? Still less could there have been any reason why he should give him Richardson’s address. If Arthur Orton wanted the defendant to write to him, he would give him his right address, not that of his father, who had no knowledge of where he, Arthur, was.

Now, having before us the terms of this letter, by whom are we to suppose it to have been written, or at all events dictated. Can we suppose it to have been dictated and sent by Roger Tichborne? If Roger Tichborne had wanted to write such a letter, Roger could write, and would have had no difficulty in writing it for himself. Why should a man with so facile and fluent a pen, and who in his early days had been an habitual letter-writer, have recourse to a schoolmaster, and, what is still more to the purpose, why should he want to know particulars about old Orton and his family? I am not at present considering what motive Arthur Orton, if the defendant be Arthur Orton, might have had for writing this letter. That is a matter for future consideration. I am looking at it with reference to Roger Tichborne. What motive could Roger Tichborne have for desiring to have information about old Orton and his family. If he had become the intimate friend and associate of Arthur Orton, and had lost sight of him, I can quite understand his addressing himself to the Ortons, to know if they had any information respecting their son; and if he was so intensely anxious, whatever might be the reason operating on his mind, to know what had become of Arthur Orton, and did not get any information from the father, and if we can suppose that by any possibility Roger Tichborne had in his possession the address of Mr. Richardson, it is quite possible he might write to Mr. Richardson about it. But what motive could he have for desiring to have information about old Orton? which is clearly

what this letter proposes—any mention about the son Arthur being thrown in only at the end of the letter, in order to make it appear that he wanted further information than about old Orton and his family. But the purport of that letter, if you come to look at it critically, is beyond all question what was pointed out by the Solicitor-General and by the Lord Chief Justice at the former trial. It has reference to old Orton and the Orton family, and not to Arthur. That being so, you must consider for yourselves what Roger Tichborne could have wanted to know about old Orton and the various sons and daughters of old Orton's family? It is one of the remarkable points in this case. It has a much stronger bearing, perhaps, on the Arthur Orton part of the case when we come to consider whether that letter was dictated by Arthur Orton himself, and that, consequently, Orton would not write the letter in his own hand, or sign it, because he knew of course that when it reached Richardson it would be handed by Mr. Richardson to the father and the family, his next door neighbours, who might recognize the handwriting. That will be a matter for future consideration, and you may think that great weight and importance attaches to it. I am simply asking you at the present moment, whether it occurs to you that Roger Tichborne could have had any motive for writing such a letter, and as following upon that, whether the writer was Roger Tichborne or not. So much at present for the Richardson letter.

I have already said that the defendant having set up in business for himself got into difficulties, and it appears he employed Mr. Miller, an attorney, who has been called before you, as his legal adviser, and Mr. Miller did his best for him, but could not succeed in preventing him from being ejected from the premises he had taken. About this time Mr. Miller entered into negotiation with Mr. Gibbes for the transfer of his Wagga-Wagga business to the latter gentleman, and they came to an agreement, and on the 20th of July Gibbes took to the business of Mr. Miller. For professional services, and also in respect of some horse-dealing transaction, the defendant remained indebted to Mr. Miller in a sum of 6*l.* odd. When Mr. Gibbes took to the business of Mr. Miller he took to his debts and credits, and there was this claim against the defendant for this sum of 6*l.* odd. It so happened that shortly after he had taken the business, Mr. Gibbes was opposed to the defendant on behalf of a Mr. Elliot in a suit brought by the defendant against Elliot to recover either wages, having been a certain time in his employment, or, as has been suggested, to recover the rent of some premises which Mr. Elliot had taken from him. It is quite immaterial which. Mr. Gibbes was the advocate for Mr. Elliot against defendant, who conducted his case in person. The defendant prevailed, and Mr. Gibbes tells us that when the matter came to be investigated he thought the defendant was in

the right and prevailed justly. This brought them into contact; and Mr. Gibbes reminded the defendant that, as the representative of Mr. Miller, he had a claim against him for the balance due to Mr. Miller, on which the defendant says, "I am bound to tell you candidly I am not in a condition to pay; I am in very poor circumstances." Mr. Miller also told us the defendant used to complain to him of the low circumstances in which he was, and he told Mr. Gibbes the same thing. "I am very poor, I am very much in debt with reference to my means, and I tell you fairly I cannot pay you. I owe as much as 200*l.* in this place and neighbourhood, and I cannot pay anybody; I don't know what to do." Then said Mr. Gibbes, "Why not go through the Insolvent Court? What is the use of a man struggling against debts he cannot pay? It cripples him and prevents him from doing anything useful: it is a position in which a man ought not to remain. It is a great pity to be harassed by unrelenting creditors, who will not give you peace; you cannot exercise your honest industry to the best advantage. Let me pass you through the Insolvent Court; it is such a nice easy way; and you will come out as bright and fresh as possible." This is one of those balmy consolations which a debtor who cannot pay his debts listens to with infinite complacency. And says Mr. Gibbes, "Although you owe me this money, I may as well file your schedule, and get you through." The defendant listened to the suggestion as a debtor would be likely to do, and says he will go through the Insolvent Court. But not long after he comes and says to Gibbes, "We were talking about the Insolvent Court. I have been thinking whether I can go through the Insolvent Court with safety. The fact is I have got a little property in England, and should I not have to state that property?"—"Certainly," says Mr. Gibbes, "it will be a very serious thing if you do not. The law is very strict here. If a man goes through the Insolvent Court, and files a schedule, and does not state all the property he possesses, it may get him into trouble. It does not signify whether the property is here or elsewhere: though it is elsewhere, you ought to make it available for the creditors here, if you want to pass through the Insolvent Court." The defendant shakes his head, and says, he thinks he had better not, and abandons the idea of going through the court. But Mr. Gibbes was naturally led to inquire what sort of property it was. Gibbes gives us a rather confused account, I think, of the early communications of the defendant upon the subject of the property. I have perfect confidence in Mr. Gibbes to this extent: I do not believe he intended to tell us a word that was not true; I believe he was extremely anxious to do justice to both parties, and had a great desire to be perfectly impartial; indeed he seemed to think that whenever he said anything for the one side he ought to say something for the

other. But I would not trust implicitly to that gentleman's recollection. In many parts of the evidence there was a character of flightiness about it which disentitled it to the weight which would otherwise attach to it. He told us he was in the habit of letting things go in at one ear and out at the other, and allowing a person to talk while he was not listening but thinking of something else. That is his own account, and we must not assume that he is rigorously exact and correct in many of the details he has given us. His account is that when he was talking with the defendant about this property he was told that it was in the South of England, and afterwards in Hampshire, but at the same time he tells us he understood it was some small and insignificant property, not at all of the character of a large estate; and he was told by the defendant it was entailed property, which in the event of his death would go to a cousin. That is the account that he says the defendant gave of his property.

There the matter rested for a time, and it was not until a series of events had occurred, which are of the deepest importance in this case, that out of the relations between Mr. Gibbes and the defendant, then passing under the name of Castro, anything further resulted; but out of those relations in the sequel arose the claim and coming forward of the defendant. We know that when all the persons, who were in any way acquainted with Roger Tichborne, or interested in his fate, had resigned themselves to the entire and absolute belief that he had perished, his mother, Lady Tichborne, still refused to believe in his death, and clung, in despite of everything, to what appeared to everyone else to be an irrational belief in the fact of his still surviving. We have been told how she and her husband used to have angry words on the subject, when she persisted in harassing him with the perpetual theme, thus reviving in his mind the dreadful sorrow for the loss of the fondly-cherished son. Whatever was the temper of the father, or of the mother, one thing is beyond all possibility of question, that they both loved that son with a fond parental love; the father lamenting and mourning for his decease; the mother hoping, as it were, against hope, and clinging to the belief of his having survived. As long as the father lived, Lady Tichborne was kept under some control; but as soon as the father was dead and gone, which happened in the year 1862, she could give the reins to her ever-unceasing desire to inquire further about her son, whom she believed to be living. Even in his lifetime, as we have heard, any idle story told by a beggar in the garb of a sailor about the son having been saved and brought into Melbourne was sure to find ready credence with this lady. The origin of her belief in this respect is indicated by the defendant himself in one of his affidavits. "In or about the year 1858, a sailor, whose name is unknown to me, solicited alms at Tichborne Park, and represented

that he had come from Australia. My mother, the said Dame Henriette Felicité Doughty Tichborne, had a conversation with the sailor, and made inquiries of him as to whether he had ever heard of the ‘Bella’ or of any of her crew having been saved. The sailor replied that he had heard when in Australia of some of the crew of a ship which he thought was the ‘Bella’ having been picked up at sea and brought to Melbourne. Mr. Francis Joseph Baigent, of Winchester, who was then at Tichborne Park on a visit, at the request of my mother, then saw the sailor, and made the like inquiries of him, and he repeated to the said Mr. Baigent the information he had previously given to my mother as aforesaid, but no information as to myself nor any further or more definite information as to the ‘Bella’ or her crew could be obtained from the sailor.”—This I think cannot be wondered at, as there can be very little doubt the sailor knew nothing whatsoever about it—“This I knew from information communicated to me by my mother and the said Mr. Baigent. My father, to whom the statement made by the sailor was communicated, expressed the opinion that it was not worth notice, and no further notice was taken of such statement in his lifetime save that my mother frequently referred to it, and when the marriage between her youngest son and the Honourable Teresa Mary Josephine Arundell was in contemplation, she stated that she had a presentiment that I was still living. This I know from information communicated to me by my mother.” The witness Brand, the gamekeeper, tells us the place was haunted by people who were desirous of practising on the credulity of Lady Tichborne, who was always ready to listen to any story of this kind, and reward and relieve the men who told it. They used to watch Sir James Tichborne going out, and then come to the house to beg, and Brand was ordered by his master if any sailor beggars came across the park, to drive them back and not allow them to come up to the house. Sir James Tichborne, as we know, died in the month of June, 1862, and immediately after this Lady Tichborne begins to take steps which, probably, if her husband had still been alive, she would not have taken; but being freed from his control she immediately adopts measures to see if she can recover her lost son. In the year 1862, before her husband’s death she had written to a gentleman of the name of Delafosse, fancying he had been on board the ‘Bella;’ but that turned out to be a mistake, and Mr. Delafosse knew nothing about it. In 1863 (her husband having died in the preceding year) she advertises in the ‘Times’ and probably in other newspapers—but the ‘Times’ advertisement alone has been produced before you—in three languages, English, French, and Spanish.

Now, in the year 1863 the defendant was settled in Wagga-Wagga, and we are told that at the hotel kept by Mr. Higgins, the English

newspapers were occasionally to be found. There is an Institute at Wagga-Wagga where they take in certain papers, and where they receive from time to time, from people in the colony, who take in the English papers, gifts, donations of papers, which are sent for the benefit of the institution. Therefore there was at the time the defendant was settled in Wagga-Wagga the possibility—there is no proof of the fact—that he may have seen this advertisement in the ‘Times’ newspaper. Besides that, we have had put in evidence two or three copies of the ‘Illustrated London News,’ one of the leading features of which paper is the obituary, which gives an account of the birth, parentage, and education, as people say, of all persons of any social distinction, with their arms and crests, and all that sort of thing, and that paper is regularly taken in at the Institution at Wagga-Wagga. There is no evidence that the defendant ever saw this particular paper; I only put it as a possibility that he may have done so. He may have been in the habit of going to the Institution, or he may have been in communication with other persons who frequented it. We will enter into that somewhat more fully when we get further on. In the month of May, 1865, it so happened that the Dowager Lady Tichborne chanced to see an advertisement in the ‘Times’ of a Mr. Cubitt of Sydney, in which Mr. Cubitt announced that he had opened an office for the purpose of general agency, and that amongst other things he made it his business (as many persons were coming out to Australia and their friends were losing sight of them) to search for persons who were missing, and of whom their friends desired to obtain intelligence. No sooner did Lady Tichborne see this advertisement than it occurred to her that Mr. Cubitt and his “Missing Friends’ Agency Office” might be made the means of discovering the son whom, though she had not heard from him for so many years, she still believed to be alive, and who for some reason or other she had taken into her head was somewhere in Australia. On the 19th May she writes this letter to Mr. Cubitt:—“Lady Tichborne having read in the ‘Times’ of the 19th May the address of Mr. Cubitt, Missing Friends’ Office, thinks that she might write to Mr. Cubitt to ask him to make some inquiries whether Mr. Roger Charles Tichborne, her eldest son, was by chance in his neighborhood. Roger Charles Tichborne is at present 32 years of age”—Lady Tichborne certainly had a very erroneous notion about her son’s age, because at that time he would have been 36 years of age—“and cannot be found anywhere, all what they could possibly guess is that he embarked at Rio Janeiro on the 20th April, 1854, but since that he never was heard of; however, there are some rumours about his having been picked up by a vessel going to Australia, possibly to Melbourne. They say that some people have been saved, and that only part of the crew has been drowned, but to what part

of South America did they go they do not know"—This poor lady's notions of geography appear to have been of a very hazy description. She fancies Australia and South America are one, and afterwards we shall find she confounds New Zealand with both—"Still they say that certainly part of the crew of the 'Bella' has been saved and has been picked up by a vessel going to Melbourne, and that afterwards they dispersed themselves, and Lady Tichborne has not been able to get any other information. She was reading the 'Times' this morning, and she saw that there was a Missing Friends' Office in Sydney, New South Wales, and she thought that perhaps Mr. Cubitt could take some information respecting her son." Then comes the description she gives of her son. "He is of a delicate constitution, rather tall and thin, with very light brown hair and blue eyes." Now, that he was tall and thin is perfectly true. He was not, indeed, very tall still he might be called tall rather than short. Thin he certainly was: and it may be said, looking at the asthma from which he suffered, that he had a delicate constitution; but how the mother, who cut off a lock of her own son's hair in 1852, and had it down to 1866, could describe it as "very light brown" hair, unless, indeed, she had, as the learned counsel for the defendant suggested, the memory of her son when a child, and not as a man, present to her mind's eye, it is very difficult to say. "The name of the vessel"—she goes on—"in which he embarked is 'La Bella'"—it was not 'La Bella' but 'Bella;' however, that is a comparatively trifling matter—"He is heir to a very large property, and it is a subject of very great sorrow to his mother that he should have quitted both his father and herself; his father Sir James Tichborne is unfortunately dead since he"—that is Roger—"went away, and his mother is always trying to get some information wherever she can. If Mr. Cubitt can hear anything respecting her son Roger Charles Tichborne, she would be most grateful to him and to whoever could find him out, and though he had no reason whatever to hide his name, however he might be under a feigned name in some business house or somewhere. The person who could give his sorrowful mother some information respecting her son would be handsomely rewarded." Then she gives her address, and then goes on: "They think that the ship 'La Bella' has been wrecked, but that part of the crew has been saved and taken to Melbourne, and that afterwards they dispersed themselves in every part of America, and that is what gives rise to many conjectures. Lady Tichborne will feel so most obliged to Mr. Cubitt to take all the informations he can respecting her eldest son who went away in 1853 only for the sake of knowing the world, and who most unfortunately has never returned home and has never been heard of since the 20th of April, 1854, when he embarked at Rio Janeiro to go to New York in the ship 'La Bella.' I am, Sir, Your obedt. Servant,

Henriette F. Tichborne. 12, Wyndham Place, Bryanston Square, London, England. Lady Tichborne thinks that her son may have married and does not like his family to know it, and perhaps has changed his name." The last passage will be important in a future part of the case; I do not want to advert to it more particularly at present; but I invite attention to the fact that from the very first the mother thought it possible her son might have married, and that his marriage might have something to do with his remaining in obscurity, inasmuch as he might have married some person whom his family would not recognise, and as to whom he did not desire they should know he had formed such a connection.

Having received this letter, Mr. Cubitt writes a very short letter on the 22nd of July, merely acknowledging the receipt; "I am in receipt of your note respecting your son; the mail, however, arrived too late to give you any particulars on the present occasion. I shall, however, use all diligence in the search, and hope that my efforts may prove successful." Then he comes to that which is of the most vital importance and interest to a gentleman carrying on an agency office: "It is usual to remit some fee in advance, but your name is quite sufficient to assure me that this hint will be sufficient, so I shall at once commence operations, which I trust may terminate successfully." After this he leads the poor lady a wild-goose chase by writing soon afterwards to tell her he has heard of her son, or believes he has heard of him, as a soldier in New Zealand, serving in some regiment there. He says: "I will not shrink from stating that which ought to suggest a reasonable hope that Mr. Roger Charles Tichborne is alive and well." Then he tells her this story of his having heard something about his being in a regiment in New Zealand, but he adds: "The enclosed advertisement, which I inserted in various Australian journals, was the first step I took in the matter; this led to further action, eventuating in what I firmly believe to be his discovery"—That is, that he was in this regiment in New Zealand, serving as a private soldier. On receiving the intelligence the poor mother becomes terribly distressed, thinking her son will be killed by the natives. It turned out, however, to be an entire delusion.

Now, this is Mr. Cubitt's advertisement: "A handsome reward will be given to any person who can furnish such information as will discover the fate of Roger Charles Tichborne. He sailed from the port of Rio Janeiro on the 20th of April, 1854, in the ship 'La Bella,' and has never been heard of since, but a report reached England to the effect that a portion of the crew and passengers of a vessel of that name was picked up by a vessel bound to Australia—Melbourne it is believed—it is not known whether the said Roger Charles Tichborne was amongst the drowned or saved." Then he

repeats the description given by the mother. "He would at the present time be about thirty-two years of age; is of a delicate constitution; rather tall; with very light brown hair, and blue eyes. Mr. Tichborne is the son of Sir James Tichborne, Bart., now deceased, and is heir to all his estates. The advertiser is instructed to state that a most liberal reward will be given for any information that may definitely point out his fate. Gentlemen in a position to refer to shipping reports may be able to find some record of the saving of the shipwrecked persons from 'La Bella,' and a very careful search, if with a successful result, will amply repay anyone who will take the trouble to investigate the matter. All replies to be addressed to Mr. Arthur Cubitt, Missing Friends' Office, Bridge Street, Sydney, New South Wales." The date of the second letter to Lady Tichborne is August 4th, and the first letter having been received on the 22nd of July, the advertisement must have been inserted in the colonial papers at some date between the 22nd of July and the 4th of August. As in Lady Tichborne's letter, so also in the advertisement, two important mistakes were made, one as to the age and the other as to the colour of the hair, both of which it may be by-and-by not unimportant to consider. How it was that this did not strike Mr. Gibbes when he afterwards came to enter upon the question of the identity of the defendant, having the advertisement, as he tells us, before his eyes, I really am at a loss to see. Either the defendant's hair must have been, as has been suggested, lighter at that time than it is now, or Mr. Gibbes, in his extreme anxiety to discover Roger Tichborne in the defendant, must have overlooked the very material difference. The advertisement represented the hair as being very light brown, whereas, in point of fact, the hair of Roger Tichborne was certainly a dark brown.

For a time Cubitt went on writing to Lady Tichborne about this New Zealand discovery, which, however, ended in nothing. On the 17th of October, Lady Tichborne writes again to him, and inasmuch as a question will arise by-and-by as to how far you can rely upon the judgment of Lady Tichborne, with reference to the identity of the defendant as her son, it becomes important to observe all that passes in her mind, and the statements she makes in the communication she addresses, first to Mr. Cubitt, and afterwards to Mr. Gibbes, because the head and strength of the defendant's case is the recognition by the mother, and no one can doubt that a mother's recognition of a son is, generally speaking, a thing to which infinite importance, almost overwhelming importance, would be attached. If there is anybody who can speak to the identity of a person it is the mother who bore him and brought him up, watched over him with maternal love, and upon whose mind, therefore, the recollection of his features and of his personal appearance would be deeply, and as

you would think, indelibly impressed: but every rule has its exception, and although you would not readily admit an exception to what would seem a universal rule, yet it may be that when you have carefully considered the state of Lady Tichborne's mind and feelings upon this particular subject, and observed her conduct up to the last moment of her life, you may be of opinion that this case does form an exception; but that is a conclusion which ought not to be arrived at hastily, or without careful consideration and regard to all the lady has said and done with respect to the subject of her supposed son's identity. Writing to Mr. Cubitt on the 17th October, 1865, she says, "I have received your welcome letter last night, and I hasten to answer it. . . . I rejoice at having given you my banker's address, as your letter has been safely delivered to me. I need not tell you what inexpressible joy it will be to me if your informations are true, and I fervently hope they may prove to be so; I am only sorry you did not name in your letter the reward you may think fit for so inestimable a favor. I have no idea what I could offer him who will devote himself to the finding out of my dear Son, and I wish to be guided by you in that matter. Had you named the sum of money it would have shortened time very much as letters are so long coming. However notwithstanding my great wish to be grateful with the person who will give me such valuable information, I am obliged to put you in mind that I have only my jointure, which has been shortened by circumstances too long to be mentioned in this letter. if you succeed the reward will be taken out of the estate and my Son my dear Roger will enter fully into my ideas and wishes on the subject. If very unfortunately you do not succeed the expenses will and must be paid out of my own money and my own personal resources are not very great, it is an affair I have undertaken all alone and at my own risks having never given up the idea of seeing my beloved son again and I cannot help feeling very anxious at the idea of his being in a regiment where he may be shot at any moment, especially as the war in New Zealand appears to be a very murderous one. therefore in every way the sooner he is out of it the better it will be. if you could persuade him to write to me I would very soon know his own handwriting"—So one would have expected—"I have the greatest possible wish that you may not spare any trouble in every way to find out my beloved son and I assure you I will not shew myself ungrateful. your first and principal object must be to find him and then to persuade him to come to join me in Paris as soon as he can conveniently do it. As for the money necessary for his discharge it will soon be found. It is a very necessary thing and absolutely indispensable to be very cautious about speaking about that affair and the greatest secrecy must be observed at least in England for many reasons which it is difficult to explain in this

letter, but none of these reasons will prevent the reward from being very handsome if you succeed. it seems to me that if Roger will consent to give his own name and let a banker know who he is he will easily find the money as I am afraid he hides his own name and he is perhaps unwilling to let any one know who he is, it would however be without any ground or reason for it and I could not myself account for it except through the love of adventure, I also think it would be a very desirable and necessary thing to find out and ascertain whether he is married or not, he was not so when he quitted England but perhaps he may have married since and he may have children." The construction sought to be put on the language of this lady was that she assumed her son's having married to be impossible, whereas, on the contrary, the only observation she makes proceeds on the possibility, nay on the probability, that the son is married and has a family. She continues: "All these particulars ought to be ascertained. For all that it will be a most important thing you should go over to speak to him yourself and perhaps to accompany him back to Paris where I am at present and bring him back to me as I am so afraid that perhaps some of those people that he has got very likely acquainted with in that country might keep him back and prevent him from coming to join me either in Paris or in London. When he quitted Paris just before his departure his Father after having vainly tried to make him give up the idea of going away at last told him that at least if God was to take him he hoped he would come back immediately to be his Mother's protector, to that my son readily consented, and he said that in that melancholy case he would return to his mother, I mention this as a motive to induce him to come back to me. And now that I have, I think, entered into all the particulars necessary, I recommend you once more not to spare either time or trouble to succeed in this truly interesting affair, and to bring it to a happy conclusion, my address will be for your next letter at my bankers, as he will always forward me my letters wherever I am, and in hopes to hear soon what progress you have been able to make.

"I remain very sincerely yours,

"H. F. TICHBORNE."

To continue—The New Zealand story had to be given up at a very early period; and so things remained until Mr. Cubitt one day received what I have no doubt was to him a very pleasant and welcome letter from Mr. Gibbes of Wagga-Wagga, saying he believed he had discovered and unearthed the real Roger Tichborne, whereupon a correspondence ensued between Mr. Gibbes and Mr. Cubitt. Now the way in which this had come about was as follows:—Mr. Gibbes, as I have told you, had proposed to the defendant to go through the Insolvent Court, and the defendant

had come to him and asked him what would be the consequences if he omitted to insert in his schedule property which he had in England. Mr. Gibbes explained that to him, and there the matter rested; but some further conversation took place, and Mr. Gibbes adverted to the statement the defendant had made to him that this property was entailed, and, at his death, would go to a cousin. Mr. Gibbes, thinking of entails, thought it an odd thing that property in England should be entailed upon a man who bore a foreign name, and he made an observation to that effect, upon which the defendant said—"To tell you the truth, my name is not Castro, that is a feigned name I have assumed in this country; I am a member of an English family, and what is more, it is a distinguished family, a family with a title in it." He did not say he was the heir to the title, but said he was the eldest son. Well, a little while afterwards they were again conversing; it was a lovely day, with a fine breeze blowing; Mr. Gibbes says, "What a day this is. I wish I were at Sydney again, where I used to amuse myself with boating in that noble bay, with such a breeze as this blowing." "Ah!" says the defendant, "that's all very well, but if you had been shipwrecked, as I have been, you would have had enough of the sea." So that passed off. But the facts were striking: property in England; family with a title; eldest son; had been shipwrecked; and now he was a butcher's man. And so Mr. Gibbes goes home and gets chatting with Mrs. Gibbes, as husband and wife do, and he says: "Here is a curious thing; what strange vicissitudes happen in life, and what strange things, we, who receive so many persons coming from a distance and from other countries, fall in with! Here is a young man, who has been talking to me, and who tells me that he is the eldest son of a family in which there is a title; he has got an estate in England, although I do not understand it is a very large one; he has been shipwrecked; here he is in this colony now, not in the position of a man who is the eldest son of a family in which there is a title with an estate attached to it, but he is Higgins' man, serving in the butcher's shop."—"Dear me," says Mrs. Gibbes, "what a very curious thing. Lord bless me, that must be the man they are advertising for." "Advertising for, my dear? what do you mean?"—"Did not you see the advertisement the other day in the Melbourne 'Argus,' or the Sydney paper?"—"No, I did not." "That's the man, you may depend upon it." Away goes Mr. Gibbes; he does not stop to finish his glass of wine, but goes to the Institute and looks up the advertisement. He waits a little while, and when he sees the defendant again, he again says something with reference to the weather, and speaks about the climate of Australia. "Yes," says the defendant, "but I prefer the climate of South America." "You have been in South America,

have you?"—"Yes, I have."—Then thinks Mr. Gibbes, "You must be the man, no mistake about it, because it was in going from South America on board the 'Bella' that Tichborne was thought to have got drowned." If, reasoned Gibbes, I put these various things together they lead irresistibly to the conclusion that he must be Roger Tichborne. So he determined to sound him further. He says, "You spoke about South America, and said you have been in South America, do you prefer the climate of South America?" Says the defendant, "Don't you ask any questions; you are fishing." So Gibbes dropped it for the moment, but he quite made up his mind he would have it out whether this was the man for whom they were advertising. He sees the defendant one day in the street smoking his pipe, and he goes up to him and says, "Shall I call out your real name? for neither the Christian name nor the surname you are going by are your own." "Hold your tongue, for God's sake," says the defendant. "I know who you are," says Gibbes, "it's no use disguising it: I know who you are, and I know your name." "Is that it?" says the defendant, holding up the pipe upon which were the letters R. C. T. cut out upon it, a black pipe, which had evidently been used for some little period—"are those the initials?"—"Yes." After that, says Mr. Gibbes, "he became much less reserved. I met him a few days afterwards; we walked down together towards the post office, and then I put the thing to him, and he admitted that Tichborne was his name. He told me there were two ways of spelling it, some spelt it with an 'o,' and some with a 'u,' but with an 'o' was the right way of spelling it. Then he became less reserved about his property, told me he was the heir to large estates, mentioned Tichborne Park, and gave me to understand, that the property was not, as I had conceived the notion, a small property which might be very well made available for the purpose of settling with the creditors and relieving him from his difficulties, but property of considerable extent, including, among others, the estate of Tichborne; not, however, at that time communicating to me the fact that there was property elsewhere."

Thereupon Mr. Gibbes sits down and writes, as follows, to Mr. Cubitt, with whom he had had an acquaintance when they were both in business at Sydney:—"Wagga-Wagga, 9th October, 1865. Mr. Arthur Cubitt, Bridge Street, Sydney. My dear Sir, I am glad on my return to New South Wales, after a ten years' absence, to hear you are in the land of the living, and thriving. I have just fixed my abode in Wagga-Wagga, and trust I shan't regret my choice, as I have ever done my leaving Sydney. I see you are a sort of general agent for all persons who are in search of missing friends in Australia. Please let me know if you are in possession of any further facts respecting R. C. Tichborne than those mentioned

in the advertisement; first, as to the peculiarity of his delicacy of health"—I daresay that struck Mr. Gibbes forcibly, because he probably did not discover in the defendant any of that delicacy of constitution to which Lady Tichborne had referred—"secondly, as to the cause of his leaving home (England); thirdly, as to the nature of his education." I daresay it also struck Mr. Gibbes as a remarkable fact, that the heir to this title, and to these estates, who ought to have received the very best education which money could procure, or educational institutions could afford, should speak the Queen's English in a manner that did not indicate any high degree of educational refinement. "I 'spotted' him"—he continues—"I think, some time ago, and could find him, I think, and if I could would urge him to disclose himself. He was hugely disgusted when he found I had detected him, and his real name has never passed between us. Of course, though, if his residence be disclosed, it must be his own act, as I, I need hardly tell you, seek no reward. So you see, as his real name has never been spoken between us, I should like the further particulars, to enable me to be certain—that is, quite certain—for I have scarce any doubt."

Now this letter must have been written before the defendant had admitted that Tichborne was the name, because he says, "his real name has not passed between us;" and that is to a certain extent important, because it makes the date which Mr. Gibbes gives us as the date when these conversations occurred, later than what Mr. Gibbes has represented. Mr. Gibbes stated that the earlier conversations had taken place soon after the 7th of September, which was the date he fixed as having seen the advertisement, and he gave us to understand that, at the time he wrote that letter, all these conversations on the subject of the name, title, and estates had passed between them. I cannot think that can be so; I think the whole must be referred to a later period, which indeed is what the defendant has himself said about the matter.

ONE HUNDRED AND SEVENTY-FIFTH DAY.

Monday, February 9, 1874.

THE LORD CHIEF JUSTICE:—When we broke up on Friday, we had reached the point at which, the defendant having been brought into contact with Mr. Gibbes, Mr. Gibbes had become so satisfied of the fact of his being Roger Tichborne, who was sought after by the advertisement, that he had written the letter of the 9th of October to Mr. Cubitt, which I then read to you. After that date the

defendant became more unreserved with Mr. Gibbes, and made a variety of statements to that gentleman connected with his family, his history, and his property. I think it would be more convenient, before I proceed further with the correspondence, at once to draw your attention to those statements. Whatever the defendant said at this time must obviously be of the utmost importance to the result of this inquiry. At that time, you see, he was thrown upon his own resources; at a later period he is surrounded by persons who could, and, possibly, did assist him. I do not say they did; that will be matter for consideration hereafter; I am merely pointing out that when he came to England he was surrounded by several who could assist him. There was Bogle, and there was the Dowager Lady Tichborne, who was impressed by the belief that his memory had become impaired by the various vicissitudes and adventures he had gone through, and who was therefore, no doubt, ready to assist him. Then he had the advantage of Mr. Baigent's support, than whom no man living knew more about the Tichborne family; he had the advantage of Mr. Rous for an ally, than whom no one knew more about the Tichborne property and settlements; and he had McCann and Carter, who could tell him all about the life of Roger during the time he was in the regiment. But at the time we are now speaking of, when he was in Australia, he had very few sources, if any at all, of extraneous information: therefore, any knowledge which he then displayed of things connected with Roger, or any ignorance he manifested of things Roger should have known, is far more important than what he may have said or done at an after period, when his mind could have been informed upon the matters Roger had been connected with, and the things he had done, or his memory may have been refreshed on things he had forgotten.

These conversations of the defendant with Mr. Gibbes, and the statements made to that gentleman, deserve to be carefully attended to. When you want to know about a man's history, it is natural to ask him where he was born, where he was brought up, how and where he was educated, and what has happened to him since. Among the first things Mr. Gibbes would have questioned him about would be his birth. Mr. Gibbes had taken him up, and at this time was taking a warm interest in him. He believed that he had found the right man; and if he proved to have done so, no small amount of credit would attach to the sagacity of the Wagga-Wagga attorney, who had discovered the lost man whom no one else could find. Perhaps there might also glimmer in the distance before the eyes of Mr. Gibbes the possibility of a handsome reward. Mr. Gibbes took considerable interest in him, and naturally asked where he was born. Now we all know where Roger was born; he was born in Paris. But the defendant's answer was, "I was born in Dorsetshire;" and he accounted

for that fact by stating that his father had a seat called "Hermitage" in Dorsetshire. Now, first as to his birth—of course no man knows by personal recollection where he was born; memory does not develop itself until long after that period; but there is hardly a man, I suppose but, from what he has heard from childhood, knows the place of his birth. It is therefore a startling fact that at the commencement of these statements, the defendant, as Roger Tichborne, who was born in Paris, and had been brought up in Paris until between sixteen and seventeen years of age, begins by telling Mr. Gibbes that he was born in Dorsetshire, where his father had a place called Hermitage; adding that his mother, immediately after her confinement, went over to Cherbourg, and that he remained in France only till he was between eleven and twelve years of age, all of which is, we know perfectly well, wholly inconsistent with the facts. Then, with regard to the other members of the family, he tells Mr. Gibbes—but at what period we are not precisely informed, and I think there is a good deal of doubt about that; Mr. Gibbes says he thinks it was early in the conversations, but the internal evidence would rather lead me to think otherwise, and I will tell you presently why—he tells Mr. Gibbes that he had two sisters born in France and who died there—which was perfectly true. Now we know that he had a brother Alfred. But according to Mr. Gibbes, no mention was made of Alfred until a later period; and then Mr. Gibbes states that the defendant said that Alfred was born in England; whereas we know perfectly well that Alfred was born in Paris. When I say I think it must have been later in the course of their conversations that he spoke of Alfred, I say so because I remember that on his first communication with Mr. Gibbes about his going through the Insolvency Court, and as to what he would have to state with reference to property he possessed in England, he told Mr. Gibbes that the property was tied up, and that in the event of his death it would go to a cousin. Now we know that in the Tichborne entail the property went to the brother Alfred and his issue male before it went to James Dormer; and therefore, if Mr. Gibbes is right in stating that he said that in the event of his death it would go to a cousin, he must have been unaware that there was a brother Alfred who would come between Roger and the cousin who afterwards would succeed to the estate. Mr. Gibbes says he mentioned that the estate would go to a cousin if he died. Then I ask, "Did he say if *he* died?—If *he* died. Did he then make no mention to you of a brother Alfred, to whom it would go before it went to the cousin?—No; he made no mention whatever of a brother Alfred." At a later period the witness said the defendant spoke of a second brother. He is asked: "Did you ever hear of a brother Alfred until the Dowager's letter came stating Alfred's death?"—which was not until May.—"I cannot say: I remember one thing—he told me that her two sons were born in England, and her two

daughters in France, but whether that was after the receipt of his mother's letters or not I cannot from memory state. *Q.* But are you sure of this—be careful as to this, and tax your memory as well as you can; are you sure when he was speaking of the estate going to a cousin, that he told you the estate would go to a cousin if he died, making at that time no mention of his brother Alfred as succeeding to the estate on his death?—Most emphatically and perfectly so.” Further on the witness says the statement about the two daughters was made at Wagga-Wagga. Now, if the defendant had no external source of information, the fact that he knew he had two sisters who were born in France would be a very strong fact in his favour. We shall see presently whether there was any source from which the knowledge of that fact might have been derived. On the other hand, if he was ignorant that Roger had a brother, that would be as strong against him.

According to Mr. Gibbes, when speaking of his birth, he made another statement, which, if Mr. Gibbes is right as to when it was made, would tell very powerfully in favour of the defendant. Mr. Gibbes says, “He told me he was born on the 5th January, 1829,” which is undoubtedly correct, and which is a thing he could not have learned out there; because neither the advertisement nor the statement in the ‘Illustrated London News’ would have told him that; nor is it probable that Slate, the Hampshire man, with whom, no doubt, he had many conversations about Hampshire and Tichborne, could have told him, as it would be very unlikely he should know the precise date of Roger's birth. The question is, whether Mr. Gibbes, who I have not the slightest doubt intends to tell us the truth, is not a man of somewhat flighty mind and memory, and may have been mistaken as to the precise time this took place. If it was after the defendant got to Sydney, we know he had there a baronetage to look at, and he may have got the information from that source. There is another observation connected with that which must not be passed over. It is a curious thing, that if he told Mr. Gibbes the exact date of his birth, he should not have known his own age; whereas we know that when his marriage took place, which was only a few months before the time I am speaking of, he said, unless he said it falsely, that he was 30, whereas Roger would have been 36. Another thing which Mr. Gibbes put to him was this. “You say you were in France until you were between 11 and 12, do you speak French?”—“No,” says the defendant; “I cannot speak French, but I can speak Spanish.” On which Mr. Gibbes tried him in Spanish, and, according to his statement the defendant spoke Spanish—I use Mr. Gibbes' own words—“volubly, with considerable rapidity and facility.” Mr. Gibbes was himself a Spanish scholar, had learnt Spanish, and knew how to speak it, and knew the difference between pure Spanish and

the sort of Spanish which they speak in South America, and he observed, naturally enough, that the Spanish the defendant spoke was a Spanish that had been learned in that part of the world. Here I must observe that it certainly strikes one as remarkable—that the Spanish, having been imperfectly acquired, should be remembered, while the French, which he had spoken with fluency, was forgotten; that the French having been perfect, as far as conversation was concerned, and the Spanish necessarily imperfect, as acquired only while travelling about the country—the French should be wholly forgotten and the Spanish retained: I do not say it is impossible, but it is one of the striking things in the case.

Connected with this subject is the question of education. Mr. Gibbes asks, “Where were you educated?—at any public school?”—“No, I could not be educated; I had a nervous affection, which prevented my being properly educated. All that could be done with me was that I was committed to the charge of a Jesuit;” or, as was said later—“a Christian Brother—who used to take me about and teach me at intervals, when it was possible to do so.” That naturally led to the inquiry, “What was the matter with you?” Thereupon he explains that he had had a nervous affection. Mr. Gibbes hears the symptoms described, and says, “Bless me! that is St. Vitus’s dance?”—“Yes,” says the defendant, “that is what they called it.” Accordingly, Mr. Gibbes when communicating with Mr. Cubitt, in describing the various particulars connected with the defendant which he thought essential to his identification, and in writing to Lady Tichborne afterwards, dwells on this matter of the St. Vitus’s dance. Now, that there may be no mistake about this, because this is one of the most important questions in the whole case, let me read to you what Mr. Gibbes said on that. Mr. Hawkins, in examining him, cites a passage from Mr. Gibbes’ letter to Mr. Cubitt:—“I see there is, ‘subject formerly, and still partially, to the nervous twitching termed St. Vitus’s dance.’—Yes. Q. What had that reference to?—To his having informed me at first that he could not be educated on account of having a nervous affection. I asked him whether it was St. Vitus’s dance that he meant, and he said ‘yes,’ that was it.” On this point he is cross-examined. “You say that he spoke to you about a nervous complaint that he had; did he say how long he had had it?—He said he had had it quite in early youth, and that they could not educate him on that account. Q. Did he not describe to you the sort of symptoms and sufferings that he had from it before you suggested any name at all?—Not very particularly, he spoke about twitching; not as minutely as a medical man. Q. Did he tell you it annoyed him and prevented him reading, and things of that kind?—It prevented his learning: at this time, you will remember, I did not pay the same attention I might have otherwise done had I

known it would have come to anything. *Q.* Did you not say, 'Why that must be St. Vitus's dance?'—I did not say 'That must be St. Vitus's dance;' I said 'That is St. Vitus's dance,' or 'Is it St. Vitus's dance,' I think; at any rate, I suggested St. Vitus's dance, and he said that it was St. Vitus's dance, and gave that as a reason for his not being able to be educated. *THE LORD CHIEF JUSTICE:* You suggested it might be St. Vitus's dance. What answer did he make to it?—He answered it affirmatively, that that was what they called it, *ipsissima verba*." Then Dr. Kenealy adds: "Did he say that any attempt to teach him regularly brought it on to such an extent that he was obliged to give it up?—He did." Now, the importance of this arises from this unquestioned fact, that Roger Tichborne never had St. Vitus's dance, or any similar nervous affection of any sort or kind. It has never been suggested, from the beginning of this case to the end, that he had, and as soon as the mother was told that the claimant had said he had had St. Vitus's dance, she immediately repudiated it, and said her son had had nothing of the kind. Now, what says the defendant? He gives a positive contradiction to the fact of his having stated to Mr. Gibbes anything of the sort. Upon cross-examination, he is asked: "Did you not tell your own attorney, Mr. Gibbes, that you had been afflicted with St. Vitus's dance from your childhood?—Certainly not. *Q.* That you swear?" Then he shrinks a little and says: "I swear, to the best of my belief, I did not. *Q.* Never mind about 'from your childhood;' did you tell him that you had been afflicted with St. Vitus's dance?—No, I do not think I did. *Q.* Will you swear you did not?—I swear I do not think I did. *Q.* Will you swear you did not?—I swear I do not remember doing so. *Q.* You will swear you do not remember doing so: was Gibbes called by your counsel and attorney at Wagga-Wagga? You have read the Australian evidence; you have read his depositions, have you not?—No, I have not. *Q.* Do you mean to say you have not looked at your own attorney's depositions?—I will swear solemnly on my oath that I have not. *Q.* Have you not looked at your own attorney's deposition in Australia?—I have not read it. *Q.* You have not?—Not one particle. *Q.* Have you had it read to you?—Not a word. *Q.* Not a word?—Not a word. *THE LORD CHIEF JUSTICE:* Or a copy of it?—I did look at one or two of them, but not at Gibbes's. *THE SOLICITOR-GENERAL:* You did not see what Gibbes had sworn on your behalf at Australia?—No; I did not." Then Mr. *SERJT. BALLANTINE* interposes and says: "Do not say on his behalf. *THE SOLICITOR-GENERAL:* I do say on his behalf—called by you. Do you mean to swear that you did not tell Mr. Gibbes that you had been afflicted with St. Vitus's dance from your childhood?—I do not believe I did. *Q.* Will you swear you did not?—I might do so.

Q. You might do so?—I might say I swear. Q. Was it true, you might do so?—I might do so; I might swear positively. Q. Will you?—I do not see why I should object to it. Q. Will you? will you swear that you did not tell Gibbes, your own attorney, that you had been afflicted with St. Vitus's dance from your childhood?—I will swear that I do not remember telling him so. Q. Will you swear you did not?—Yes, I will swear it. Q. You will swear you did not?—I will swear I did not. Q. If he has said that, is it untrue?—It is untrue. Q. It is a falsehood?—It is a falsehood. Q. An absolute falsehood?—An absolute falsehood. Q. Without any foundation?—Without any foundation. Q. Did he ever talk to you, after he received this letter from your mother, in which she said that you never had, that Roger Charles Tichborne never had St. Vitus's dance? did he ask you to explain how you came to tell him that?—I think you will find he received that letter after my departure.”—That was true.—“That may be so; can you account for his writing to Lady Tichborne, as it appears he did, to say you had told him that you had St. Vitus's dance?—No; I cannot account for it.” He is reminded then of the very flattering terms in which he had written concerning Mr. Gibbes to his mother, and then he is asked: “Can you account how Mr. Gibbes came to tell Lady Tichborne that you had had St. Vitus's dance, if you had not?—No, I cannot. Q. Now, upon your solemn oath, did you not tell him you had?—Upon my solemn oath I did not. Q. Nor anything of the sort?—Nor anything of the sort, to my recollection. Q. To your recollection?—Yes. Q. Will you swear you did not?—I will swear I did not.” Now, gentlemen, either Mr. Gibbes or the defendant must in this respect have sworn to that which is false. A man does not fancy, you know, that another has told him he had had St. Vitus's dance unless something to that effect has passed. You must judge between these two witnesses. It is entirely for you to say whether you believe the defendant upon his oath that he never did tell that to Mr. Gibbes, or whether you believe Mr. Gibbes' statement. All I can say upon the matter is, as I said before, if he did tell Mr. Gibbes that he had had St. Vitus's dance, or a nervous affection called St. Vitus's dance, he can hardly be supposed to have made that statement without it being a fact that he had had that particular malady. In that case, it has a twofold bearing. In the first place it is a question of credit. If he has sworn falsely in denying the having made that statement, it naturally must shake your confidence in many other statements in which we shall find him confronted with other witnesses, where he and they are in conflict, and either he or they must have stated that which is false; but it goes a great deal further, and to the very root of the case, seeing that Roger Tichborne had never had this affection, or anything of the kind. Now, there is, in addition to the positive statement of

Mr. Gibbes, the fact that shortly after this alleged conversation Mr. Gibbes wrote to Mr. Cubitt and to the Dowager Lady Tichborne, referring to this fact as a means of identifying Roger; not as intending to prejudice him, for at this time Mr. Gibbes was all in his favour, and desirous of doing all that he could for him, and anxious to establish his identity, so that in writing to Lady Tichborne he did not refer to this statement as making at all against the defendant, but as a means of recalling his identity to the mother's recollection. And the fact of Mr. Gibbes having thus written immediately after his conversation with the defendant is strong to show that at that time Mr. Gibbes had present to his mind the fact of the defendant having made such a statement. But it does not rest there; there is on the side of Mr. Gibbes the evidence of another witness who was called before us on this trial—a gentleman in a highly respectable position, who can have no interest whatever in this case—I mean Mr. Hodson, who, you recollect, came part of the way home in the same vessel with the defendant. Mr. Hodson, finding there was on board the vessel a gentleman going home as Sir Roger Tichborne, gets into conversation with him, and is struck with the fact—just as Mr. Gibbes had been—that a man who had been brought up as the heir of the Tichborne family, and had once occupied the position of a gentleman, should speak English in the uneducated form and style in which the defendant spoke it, and he could not help saying to him—I dare say he did it with all possible delicacy—“It strikes me as odd: you say you are Roger Tichborne, but you do not speak English as I should have expected an educated gentleman to do.” On which the defendant makes him the same answer he had made to Mr. Gibbes—“I could not be educated, because I had St. Vitus's dance.” Having gone with the claimant in the ‘Rachiaia’ as far as Panama, Mr. Hodson is asked—“You had plenty of opportunities of speaking to him and observing him and his manners, and so on; did you on any occasion speak to him about his early education?—I did. Q. Would you tell us what the conversation was, giving us it in detail, as it passed between you, as near as you can recollect?—I remember putting the question, how it was that he, who was born to rank and property, had received so little education. The LORD CHIEF JUSTICE: There is a preliminary question which I should like to ask—what did you observe about him that led to that question? How did you ascertain that he had received so little education?—By frequent conversations with him. Q. I mean in what respect did you observe the deficiency?—His conversations were not the conversations of an educated man. That you had observed?—Frequently; always. His reply was that he had had St. Vitus's dance until he was fifteen years of age, and could not learn his letters? Q. His letters?—I understood the letters of the

alphabet." The defendant had been asked as to that. "You came home in the 'Rachaia?'—I came home in the 'Rachaia.' Did you meet on board the 'Rachaia' two people, one called Hodson and the other Jones?—Yes, both of them. Q. Upon your solemn oath did not you say to both those people that you left England with St. Vitus's dance?—Certainly not. Q. That you swear?—That I swear. Q. If they have said that it is a pure invention, too?—I believe so. Have you ever said so?—No. Q. To any one?—Not to any one to my knowledge. Q. To your knowledge; have you any doubt?—I have no doubt whatever. Q. What do you mean by 'to your knowledge?' Would it be an absolute falsehood if you ever had said it?—I do not exactly understand that. Q. If you ever said to any one that you had St. Vitus's dance, would it be true or untrue?—It would be untrue." Thus, we have Mr. Gibbes supported, not only by his own letters, written immediately afterwards, but also by the evidence of Mr. Hodson, who represents the same thing as having been said to him.

There are one or two other statements made by the defendant to Mr. Gibbes, which are not unworthy of observation. He told him he was a gambler; he talked to him about gambling. Now, as far as we know, with the single alleged exception of the Brighton card case, on which I shall have some observations to make by-and-by, there is nothing, according to the evidence of the family and friends, to lead us to suppose that Roger Tichborne ever was a gambler. Mr. Gibbes is asked: "Did he speak to you during the early part of the year about gambling?—Yes, he said he had been addicted to gambling; it had been a weakness of his. I do not know that he used the word 'weakness,' but he spoke of having gambled. The LORD CHIEF JUSTICE: But, you see, it is one thing to be addicted to gambling, and another thing to have gambled. A man may have gambled once, twice, or thrice, repented of his folly, and desisted from it for the future; or he may have been an habitual gambler. You use a form of expression which may mean either of these? The witness answers:—"Weakness" may convey more the actual meaning, because he thought of going with me to England." Here we have some of the rambling evidence of Mr. Gibbes: "I am a most determined enemy of gambling, and he wanted me to come to England with him." Then I said: "Never mind that, give us what passed?—I did not expect to be asked; that is years ago he told me he had gambled. Q. But surely you can tell us whether you understood he had been engaged in gambling transactions once, twice, or thrice, or was addicted to gambling, an habitual gambler; which do you mean to convey?—That he was inclined to be an habitual gambler. Q. Did he tell you when and where he gambled?—It was not until long afterwards he spoke of when and where. It was con-

nected with a card case at Brighton; that was down at Sydney." Now, as I say, there is no trace of Roger having been in the habit of gambling; he never did it in the regiment; his family never knew of anything of the kind; and if this conversation passed, it would hardly be in keeping with the character of Roger; with this qualification, however, that it may be that not having gambled in England, Roger, if the defendant be Roger, acquired the habit of gambling in Australia, and may have spoken of that sad passion as engrafted in him through his Australian life.

He made another singular statement. He told Mr. Gibbes that his family had been in the habit of giving 3s. in the pound, that is 15 per cent. of their income, to the Roman Catholic Church. There is no evidence to lead us to believe that they did anything of the kind; on the contrary, Mr. Gosford, who was the steward for so many years, never heard or dreamt of such a thing. Whether the defendant had got the Tichborne dole in his head, and did not know what the Tichborne dole meant, the giving of which is an old-established practice of the Tichborne family, which has existed for centuries, and of which there is a celebrated picture at Tichborne House, and he engrafted upon that the idea of a per-centage paid upon the yearly income of the estates to the Catholic Church, I do not know. If he did make that statement to Gibbes, it is clear he was wrong about it. Then, talking about the family, he told Mr. Gibbes that there were two branches of it, one which spelt the name with a "u," and the other without it, and that those who spelt it without the "u" spelt it right. Curiously enough, no question was asked of any member of the Tichborne family by either side as to this matter of a branch of the family who spell their name with a "u." I cannot imagine, as far as that goes, that he can have been right in this respect, although we shall see presently from what source he may possibly have got the information that there was a time when they spelt their name with a "u," although they have long abandoned it.

With regard to his property, his statements are certainly remarkable. In the first place, he spoke to Mr. Gibbes about the property in terms which led to the belief that it was a small, insignificant property. He said that at his death it would go to a cousin, than which nothing could be more erroneous, because his brother's estate for life, with remainder to his children in tail, intervened before the cousin; in this therefore there was a very serious mistake. Afterwards, when he got a little more unreserved in his statements, he told Mr. Gibbes that the estate comprised Tichborne; and he went further than that, he told him there was property which had come from a relative, and he mentioned in connection with that property the name of Doughty. He did not say that the property had come from or

through a Doughty, but in talking of the property which he had in addition to Tichborne, he certainly did speak of the name of Doughty. Of course, so far he was right; the estate which Roger would have, in addition to the Tichborne estate, and which, if the defendant was Roger, was his at the very time, was property which had come through a relative. It is a curious fact, however, that while he mentioned the name of Doughty in connection with the property that had thus been acquired, he never appears to have said a word to Mr. Gibbes as to his Doughty relations. He never mentioned his uncle, Sir Edward Doughty, or his aunt, Lady Doughty, and the name never appears to have transpired except in this way, that he did mention the name of Doughty in connection with the property that had come to the family through a relative.

What, then, is the result? If we take both sides of the account, while he is right in some things, there is a very serious *per contra* on the other side where he is wrong. He tells Mr. Gibbes that he was born in Dorsetshire, at his father's seat called Hermitage; speaking of that seat as one which had belonged to his father, and at which his father had resided. It is impossible to show grosser ignorance. Not only had Sir James Tichborne no seat in Dorsetshire, and still less a seat called Hermitage, but Sir James Tichborne never had a residence in this country during the whole period of Roger's stay in it. Mr. James Tichborne, as you know, was a third son; he had no landed property, and had no seat, and no residence in England. He lived in Paris from the time of his marriage until the day when Roger set foot on board the 'Pauline' on his way to South America. Besides that, he told Mr. Gibbes he had property in the Isle of Wight. Mr. Gibbes says: "I do not exactly remember what property, but I remember his speaking about a crescent or terrace, or row of houses at Ryde, or Cowes, or somewhere in the Isle of Wight." Now we know very well that the Tichbornes had no property, at least in modern times—I do not know whether they had formerly—either at Cowes, or Ryde, or anywhere else in the Isle of Wight. That, therefore, was clearly wrong.

So much for his positive statements. Now let us look at what is omitted. He makes no mention of the three years passed at Stonyhurst; he makes no mention of his life in the army; we shall see by-and-by that he positively denies both; but I am merely going by degrees, passing in review the different conversations and events as they occurred, up to this time. In these conversations with Mr. Gibbes, there is no mention of the life at Stonyhurst or his life in the army. Certainly very striking omissions, because they form the two most important epochs in Roger's life. It is plain that we have here the most extraordinary medley of ignorance and knowledge,

and while, if the defendant is Roger, it seems impossible to account for the ignorance thus displayed, on the other hand, unless he had some source of information open to him, it is equally difficult to account for the knowledge which he did, in fact, manifest. Let us see whether at that time there were any sources of information open to him. As early as 1863 we know that Lady Tichborne advertised in the 'Times' newspaper in three languages, English, French, and Spanish, and in one of those advertisements, the Spanish, there was a little more communicated than in the other two; but even there the information was very far short of the knowledge which the defendant exhibited. All that those advertisements disclosed was the disappearance of Roger, the fact of his having gone on board the 'Bella,' the date of her sailing, the name of the port from which she sailed, and her destination. That could have told him nothing about the Tichborne property or the name of Doughty, or the fact of there being a second son and two daughters. Nothing, of course, of that sort could have been gathered from those advertisements; his information is very much more extensive than was contained in them. Were there any other sources open to him? It appears that at this time there was in the employment of Mr. Higgins, the defendant's master, a man of the name of Slate, a Hampshire man, whom he speaks of as "a very great friend," and whom Mr. Petit Smith, who knew him, describes as a man who, although in humble circumstances, being at that time in servile employment, was a man of superior education. We know that in the ups and downs of this life men are often found, especially in a colony to which so many persons are driven by one circumstance or another to find refuge from this country, men who have seen better days, who have been decently educated, perhaps well educated, but who are reduced to a lowly condition; and such appears, according to Mr. Petit Smith, to have been the case with this Slate, whom the defendant mentions as a very great friend of his, and as a Hampshire man. Well, as a Hampshire man, Slate may have had, especially if a man once moving in a better sphere of life, some knowledge of the Hampshire families, and he may have known something about the Tichborne family. He may have heard in the gossip that takes place in the parlour of an inn of an evening, or in the intercourse between people in the country, that the Tichbornes had acquired property in Dorsetshire through a relative of the name of Doughty. It is possible that he may have seen the undoubted Roger himself, and it is possible that he may have been struck by the likeness between the defendant and Roger. I do not, however, find, from the defendant's statement, that Slate professed to have known Roger, still less that he professed to identify the defendant as Roger. It is quite evident that Slate took some interest in the history of the Tichborne family, and in the

discovery of Roger, because the defendant himself tells us that Slate was the person who called his attention to the advertisement which Mr. Cubitt had caused to be inserted in the Australian papers. Slate, as the defendant tells us, had gone up to Melbourne from Wagga-Wagga with a lot of cattle belonging to Mr. Higgins. The defendant was to have gone with it to Melbourne himself; but he was prevented going, and Slate went in his stead, and when Slate came back, he brought a Melbourne paper in his pocket, and produced it, and called the defendant's attention to the advertisement. We know that the advertisement was published between the 22nd July and the 4th August, and therefore, in all probability, it was shortly after that time that the defendant saw that advertisement. Now nothing could be more natural than that Slate, upon producing this advertisement and showing it to the defendant, should make some observation about it at the time. The inference I draw from it is this, that Slate taking an interest about this, as the facts show he did, most probably felt that interest by reason of his having somehow or other some knowledge of the Tichborne family. And the probability is, that what he knew he told to the defendant when discussing the advertisement. I do not think that is at all an unreasonable inference to draw.

There is also another source from which information might have been derived, but there is no proof that it was so—it is merely matter of speculation—and that is from the statements made in the 'Illustrated London News.' We know that the 'Illustrated London News' was taken in at the Institute at Wagga-Wagga, and the defendant being a man able to read—that he is a man of intelligence nobody can doubt—may have gone to the Institute in his leisure moments, and you know the first thing that attracts almost everybody—not the illiterate only but the literate too—is the pictures. One does so like to see those pictures. In travelling on the railway, when the newspaper boy comes up, the first thing people ask for is the 'Illustrated News.' Now, one of the specialities of the 'Illustrated News' is the obituary, in which not only is the death of every distinguished person recorded, but an account of their birth, parentage, and education, together with their family history, is inserted. Well, there is the death of Sir Edward Doughty, on the 12th March, 1853, and an account of his family. I do not think it likely that that found its way into the defendant's hands at the time of its publication, but it is possible that if he afterwards thought it desirable to acquire information with respect to this family, he may have turned back to the file of this paper, and found this statement. No doubt that is very remote; nevertheless as the document has been put in, I will read it. "12th March, 1853. Sir Edward Doughty, Bart. This gentleman, the heir-male and representative of the old and eminent

family of Tichborne, seated in Hampshire before the Conquest, died on the 5th instant, aged 71, at his seat, Tichborne Park, near Alresford. He was the third son of Sir Henry Tichborne, the sixth baronet, by Elizabeth Lucy his wife, daughter of Edmund Plowden, Esq., of Plowden. In 1826 he succeeded, at the decease of the late Miss Doughty, of Snorford Hall, Lincolnshire, and of Richmond Hill, Surrey, to that lady's extensive estates, together with her property in the neighbourhood of Russell Square, including Doughty Street, &c., and assumed in consequence the name of Doughty. In 1834 he served as High Sheriff of Dorsetshire, and in 1845, by the death of his elder brother, the late Sir Henry Tichborne, without male issue, became baronet of Tichborne. Sir Edward married 26th June, 1827, Katherine, daughter of James Everard, ninth Lord Arundell of Wardour, and had one son, Henry, who died in youth, and one surviving daughter, Catherine Mary Elizabeth Doughty. The present inheritor of the title and estates is Sir Edward's only surviving brother, now Sir James Francis Tichborne, ninth baronet. He is married to Henriette Felicita, daughter of Henry Seymour, Esq., of Knoyle, Wilts, and has two surviving sons, Roger Charles and Alfred Joseph." As I have said, I do not think it is at all likely that the defendant saw that; but that observation does not apply to a later statement, which records the death of Sir James Tichborne, the paper being of the 21st June, 1862. The account given is remarkable, and deserving of attention. "Sir James Francis Doughty Tichborne, tenth baronet of Tichborne, Hants, was the fourth son of Sir Henry Tichborne, the seventh baronet, by his wife Elizabeth Lucy, eldest daughter of Edmund Plowden, Esq., of Plowden, in the county of Salop, and his wife Lucy, daughter and co-heir of William Thompson, Esq., of Fyston, Oxon, and granddaughter of Sir Berkeley Lucy, Bart. He was born on the 3rd of October, 1784, and succeeded, as tenth baronet, on the 5th of March, 1853, his brother, Sir Edmund Tichborne, the ninth baronet, who assumed the surname of Doughty in 1826 on succeeding to the estates of his relative, the late Miss Doughty, of Snorford Hall, Lincolnshire, and Richmond Hill, Surrey. Sir James Francis Tichborne, the subject of this notice, obtained, in the May after his succession to the baronetcy, a royal licence for himself and his heirs to bear the name of Doughty, before that of Tichborne. He married, the 1st of August, 1827, Harriette Felicita, daughter of Henry Seymour, Esq., of Knoyle, Wiltshire, and had issue two sons, the elder of whom, Roger Charles, was lost at sea, off the coast of South America, in 1854, and two daughters, who both died young in Paris. He is succeeded by his only surviving son, now Sir Alfred Joseph Doughty Tichborne, the eleventh baronet, who was born on the 4th September, 1839, and married, the 17th of April, Theresa Mary, eldest daughter of Henry

Benedict, eleventh and present Lord Arundell, of Wardour. This very ancient Roman Catholic family of De Tichburne, or Tichborne, was of importance in Hampshire before the Norman Conquest, and we hear of the De Tichburnes as knights and men of position and prominence in the reigns of the early Norman kings. They were staunch cavaliers under the Stuarts. When Queen Elizabeth died, Sir John De Tichborne, Knight, then High Sheriff of Hampshire, at once proclaimed King James the First. The monarch marked his sense of this signal service by knighting Sir John's four sons, and conferring on himself the Castle of Winchester in fee-farm, and the dignity of a baronet, the 8th of March, 1620. From this Sir John the baronetcy has descended through a long and loyal line of cavaliers and worthy gentlemen to Sir James Francis, the baronet just dead, and his son and successor, Sir Alfred Joseph Doughty Tichborne, the present baronet." Gentlemen, if that publication was ever seen by the defendant, or seen by Slate, who was an educated man, and who would be likely to go to the Institute at Wagga-Wagga, and read the 'Illustrated London News,' it contained knowledge of certain material facts: that the property had come to the Tichbornes through a Miss Doughty, and that the name of Doughty had been assumed in consequence. It would further convey a knowledge of the fact that two daughters had died young in Paris, and therefore probably had been born in France, but it would leave the reader in ignorance of the fact that the two sons had been born there. It is silent as to the place of the birth of the sons. It would further convey a knowledge of the fact that there were two ways of reading the name of Tichborne, the one spelling it with a "u," and the other with an "o." Whether the information displayed by the defendant as to these particular facts arose from having resorted to the newspapers at the Mechanics' Institute, or whatever is the name of the Institute at Wagga-Wagga, or from the perusal of this particular obituary, I do not undertake to say. The possibility is merely one of the elements in the case, as to which you must form your own judgment.

By the JURY: But it would have given the information of his mother's Christian names.

The LORD CHIEF JUSTICE: I was going to say that the observation which presents itself on the other side is this—that supposing it to have been carefully studied, so that the facts would be carried away in the memory of the person who studied it, one would suppose it would have given more information to the defendant than he appears to have possessed. It speaks of property in Lincolnshire and in Surrey; it gives particulars of Sir Edward Doughty having intervened between the former possessors, Sir Henry and Sir James;

and as you very truly point out, it gives information also as to the Christian names of the mother. But it is always possible that a person having merely picked up information in this way may not have it sufficiently implanted in his memory to be able at the moment when he is asked this or that question to reproduce it and to state matters accurately ; all that is matter for you to consider.

By the JURY : According to Mr. Gibbes' evidence, at the time the defendant made his will the defendant told him that he knew what was going on in England, and that some one kept him informed.

The LORD CHIEF JUSTICE : I know he said so, gentlemen, but I confess I do not attach very great importance to that, because we have no trace of who it could have been, and I do not think one ought to press that against him, unless it is confirmed. If he had any source of information, or if there was any quarter to which he had resorted, I think he would have known a good deal more. There are many things one cannot account for except on the hypothesis, either that he is not Roger, or that his memory must have most signally failed him. With regard to these things, I should be disposed to think if he had any authentic source of information in England he would have been better instructed than he appears to have been. However, the fact that he did so state to Mr. Gibbes—if you believe Mr. Gibbes—is always a circumstance to be taken into account as entitled to more or less weight.

So much for the conversations between the defendant and Gibbes. I come now to the correspondence between Gibbes and Cubitt. I have read the first letter from Mr. Gibbes to Mr. Cubitt, in which he expressed his belief that he had (to use his own phrase) “ spotted the man.” Then comes an answer from Mr. Cubitt of the 19th of October, stating that he is very glad to have received a letter from his former friend ; and then he says—and this is the only part of the letter in which we are really interested—“ Referring to the special purport of your letter ‘ in re’ Roger Tichborne, I have to thank you for your willingness to afford me gratuitous information, but I would rather desire that you treat the matter as a business transaction”—Mr. Cubitt is perfectly right, there is nothing that stimulates a man's energy and diligence so much as the probability of his receiving reward—“ and in the event of any search terminating successfully I wish you to accept (provided the issue is owing to your efforts) such share of the bounty money as you may be entitled to, and that share will be arrived at when the October mail from England reaches here in December next, that is, of course, anticipating a punctual reply to my last letters to Lady Tichborne. Beyond the circumstances detailed in my advertisement I have little else to record. Mr. Roger

Tichborne, at the time he left England, could little have expected to become heir to the estates in question, for his father was not then a baronet. Sir Doughty Tichborne was then the possessor of the title and property; he died without issue, and these reverted to his brother, the father of Roger Tichborne, who is since dead, and the estates consequently fall into the hands of the oldest son (by entailment), the gentleman for whom I am now searching"—Mr. Cubitt here was writing about a matter which he did not understand, and has fallen into one or two mistakes which, however, are not material to us—"His mother's letter does not convey much on the points to which you specially refer, but she mentions the probability that he might adopt from feelings of pride an assumed name, and that his leaving home was from caprice and not necessity. To carry out my object satisfactorily I think great caution should be exercised, and I beg of you while soliciting your kind offices, to use every discretion, and above all to do nothing that might induce Mr. Tichborne to retain his incognito, for rest assured that if he be so lost as not to desire to return to a position of comfort and affluence he will carefully avoid reference to any matters that may show not only what he now is, but what he ought to be." On the same day he writes to Lady Tichborne: "My search progresses satisfactorily. We must not in such a difficult case anticipate *immediate* success, but my monthly reports will convince you of the earnestness with which I take up the matter. I now supplement my correspondence by giving you a copy of a letter received yesterday from a personal friend." Then he repeats and sets out the letter of Mr. Gibbes of the 9th in these words: "Let me know if you are in possession of any further facts respecting R. C. Tichborne than those mentioned in your advertisement. First, as to the peculiarity of his delicacy of health; secondly, as to the cause of his leaving home; thirdly, as to the nature of his education. I '*spotted*' him I think some time ago, and I believe I can find him, and as I know him, I would if I could, urge him to disclose himself. He was hugely disgusted when he found I had detected him. I should like any further particulars to enable me to be *certain*, by which I mean *quite* certain; for I have scarce any doubt." Then he adds, "I am sure, my dear madam, I feel much pleasure in being able to fortify you with every prospect of again meeting your son. Apparently this object is in a fair way of accomplishment, and if I be successful it will afford me infinite pleasure." A month later, having heard nothing of Mr. Gibbes in the meanwhile, he again writes to him—"Dear Sir, I have been anxiously waiting a letter from you giving me some more particulars respecting Mr. Tichborne, and should esteem it a favour if you would forward me a reply to this in time to telegraph to catch the English mail at Adelaide." On November the 23rd he writes to Lady Tich-

borne: "My dear Madam, unavoidable absence from Sydney since the departure of the last mail has prevented me from prosecuting my search for your son. I have, however, since my return communicated with Mr. Gibbes, the gentleman referred to in a previous letter, and I hope by the December mail to give you some definite information." At this time the defendant appears to have made up his mind that he would come forward and go to England, for Mr. Gibbes writes thus to Mr. Cubitt on the 25th of November: "I told you in my last"—that "last" is not forthcoming; it appears never to have been received—"I told you in my last that if the necessary funds and something to leave behind could be got, I could send on the missing man at a very few days' notice, but that I had promised not to reveal his secret against his will before the end of March next. He is so far changed from his original intentions that he is anxious to go, but his present identity must be totally disconnected from his future. I can say no more at present. I should have written on Friday, but owing to the magistrate's want of punctuality, was kept at Court from 9 A.M. till after post hour. I suppose you received my letter acquainting you with the certainty that he really is Roger Charles Tichborne." So that by this time you see all reserve had been laid aside, all concealment thrown off, and the defendant had avowed himself to be Roger Tichborne, and had declared that he was ready to come forward. Mr. Cubitt answers on the 29th: "I am in receipt of your note of the 25th inst. I have never had the letter you refer to acquainting me with the identity of Mr. Tichborne. I shall be prepared, so soon as the next mail arrives from England, in the event of receiving advices from Lady Tichborne, to make all necessary advances not only to get Mr. Tichborne to Sydney, but also to send him home, and at the same time, as in a previous letter, I expressed a wish that this should be a business transaction, to compensate you for the assistance you have given me in this matter. Of course, while I am desirous of carrying out your wishes as to secrecy you must bear in mind that I, as well as yourself, must be satisfied that I get the right man."

At the beginning of the next month, namely, December, Mr. Gibbes, having occasion to go to Sydney on business, sees Mr. Cubitt, and learns from him that the property was much larger than he had been led to suppose from the defendant's representation of it, and he becomes sensible that a considerable reward may properly be demanded, and he determines to have his share of what might be obtained, quite independently of Mr. Cubitt, whom he evidently distrusted, and we see that he carries that out afterwards. In the meanwhile, on the 21st of December, Mr. Cubitt thus addresses Lady Tichborne. He had received a letter from her of October the 17th, and he writes thus: "Your favour of October 17th is only now

to hand, and the few hours left me to reply, compel me to be as brief as possible. My previous correspondence will have convinced you of the perseverance with which I have instituted the search"—the fact being that he had never done anything except put some advertisements in the papers—"and the care with which I have made my reports will be sufficient to assure you that I was most anxious to avoid stating anything that the facts did not justify; you will, therefore, not fail to put credence in my present statement, that Mr. Roger Tichborne is alive and well; that he is now in this colony, within 600 miles of Sydney; and that it is my intention to proceed at once to his place of abode, and to the best of my ability carry out all your wishes. While you might not have been able fairly to estimate what would have been a proper compensation in the event of my search proving successful, I must say that I did expect a draft by this mail, at least to pay for the great trouble and expense I have been already put to"—which was, as I say, that of putting some advertisements in the paper—"especially in the face of the fact that I might have had to make a voyage to New Zealand and back." It is hardly possible to maintain one's gravity when one finds this gentleman claiming a reward, not for a voyage he had made, but for a voyage that he might possibly have had to make, but never did make—"and I trust that this intimation will be sufficient to secure to me without further delay a compensation in part. From circumstances that have come to my knowledge, I agree with you that it is necessary I should accompany your son to England or to Paris"—he does not say what the circumstances are—"but if this can be averted I have no desire to put you to the additional expense of my passage to England and back, and the remuneration that would have to be made me for loss in my business during my absence. As to the ultimate reward, I understand by your letter that in the event of success this is to be paid out of the estate, and that in the event of failure, I am to look to you for the expenses contingent upon this inquiry. Your mind will now have been relieved as to the fear of his being slaughtered at N. Z., as he is far away from the seat of war. Mr. T. will not publicly reveal his own name, and when he leaves here will do nothing by which the public prints will be aware of his departure hence or in England of his arrival there; so far the secrecy you desire will be maintained, and I see no difficulty in the way of confining all this business to the parties interested. Your son's circumstances are of such a character that he has not even the means to come to Sydney, much less outfit and passage-money for his voyage home; this will all have to be provided by me, and of this fact you must not lose sight. The many demands upon my own resources will render it inconvenient to find all the funds required for the purposes above mentioned, and a remittance will be essential. A letter

from you to your son I shall be glad to deliver personally." That is the last letter I think in that year.

Gentlemen, we have now brought the story down to the end of the year 1865. At this period, as we have seen, the defendant had made up his mind to come forward as Sir Roger Tichborne, and to return to England. On the 10th of January, 1866, Mr. Cubitt writes to Mr. Gibbes as follows:—"Dear Sir, Letters of a most important nature having been received by me from Lady Tichborne, it becomes a matter of necessity that I should at once have a personal interview with her son. On the receipt of her last communication I had fully purposed coming to Wagga-Wagga, but my business engagements render it a matter of impossibility. I therefore have to throw myself upon your good offices, and beg that you will be kind enough to send him on to Sydney by return of mail. I am unable to ascertain the fare, but if you would procure a ticket for Mr. Tichborne, and advise me of the cost, the amount shall at once be remitted." To which Mr. Gibbes replies:—"I received yours this morning, and, making instantly the necessary inquiries, discovered that Sir R. C. T. has left his last place of abode"—He was only living just outside the town—"He has lately shown signs of restlessness, but I think he has not gone far as yet"—He cannot have gone a yard: he was still at Wagga-Wagga, in Higgins's employ—"As for my showing him to you, mature reflection has shown me that is out of the question without his consent, even if I could at present. As after the present lapse of time I should feel myself justified in claiming (on behalf of the real discoverer, my wife) the reward, I should wish to know if the letters you have received from England give anything definitive. As I told you the amount should not be less than 200*l.* or 250*l.*, that amount I am willing to divide equally with you. You need not expect T. to start unless he can leave some money behind for the person I spoke of. The mere passage, including road expenses, is about 10*l.* 15*s.* One thing I may mention, I find, on observation, his nose is not aquiline, but straight; his eyes nearly grey (they change from blue in after-life); mouth rather narrow, with a retreating expression, subject formerly (and still partially) to the nervous twitching termed St. Vitus's dance"—That is the passage in which he tells Mr. Cubitt of the St. Vitus's dance—"In case you may deem it desirable to send this letter home, it may be gratifying to his relations to know that, low as he has descended in the social scale, his character for honour (and obstinacy?) has stood unimpeached by any. You had better let me have a copy of Lady T.'s last letter, and then I can judge of matters for myself, as the information in your last is very meagre. Have you told Lady T. of the pipe with his initials on it?" Mr. Cubitt answers:—"I am quite prepared to meet your views by dividing either 200*l.* or 250*l.*, if I receive it from

Lady Tichborne, deducting, of course, expenses occasioned by advertising. I have all along thought you ought to have a share, and this promise in writing ought to be sufficient. Lady T.'s letter said nothing in shape of identification or amount of reward. When I can get him for certain, money shall be forthcoming for the purposes you named."

We now come to a fact of infinite importance, the first communication made by the defendant from Australia to the Dowager Lady Tichborne. On the 17th of January the defendant comes to Mr. Gibbes and informs him that he is ready to write to his mother; but he says that not having written to her for so long he felt he should have some difficulty in beginning his letter, so Mr. Gibbes says, "I will do it for you;" and he tells us that he sat down to commence the draft of a letter to be copied afterwards by the defendant; but he began in a way which the defendant felt would not do. Mr. Gibbes appears to have written as he would have written to some one on behalf of a client, in the formal way in which a solicitor commences a letter—an odd way, certainly, in which to make a son commence a letter to his mother—"My dear Madam, You will, no doubt, be surprised at again seeing my handwriting;" upon which the defendant's shrewdness and sagacity made him feel the absurdity of beginning in that way as from a son to a mother; and he says, "Oh, that will not do, she would know that is not my old style;" and Mr. Gibbes says, "He came and took my pen out of my hand quietly and said, "She will know my old way and my handwriting." Then says Mr. Gibbes, "I asked him if he wrote the same handwriting as when he left England; he said that he did, but added that he wrote either better then, or that he wrote better when he was in England, or that—I did not exactly catch the meaning of it—he wrote better at one time or other of the two." Then the defendant takes the pen and sits down to write, and Mr. Gibbes says, "You are writing to your mother for the first time after all these years; you had better put something in your letter by which she will know you and be sure of your identity." Accordingly the letter is written in these terms:—"Wagga-Wagga, January 17, 1866"—Gentlemen, in reading the letters of the undoubted Roger, I called your attention to various matters connected with the spelling and the style; I ask your attention, and your vigilant attention, to the spelling and style which characterises this and the subsequent letters of the defendant, making allowance for the interval of twelve years and the different life that the defendant had been leading meanwhile, and I invite you to compare the one style with the other, and to judge whether in the style, in the tone and spirit, the thoughts, the composition, the grammar, and the spelling, and, last not least, the punctuation, you can find identity with the letters of the undoubted Roger Tichborne, or even

any similarity between the two; or whether you see from the very commencement a different spirit breathing in these letters, and a total difference of style and composition, and everything which characterises letters written by one man as distinguished from those written by another. It is necessary to observe these matters most carefully. Let us begin with this letter—the first written by him to his alleged mother after twelve years of silence. “Wagga-Wagga, January 17th, 1866. My dear Mother—The delay which has taken place since my last Letter, Dated 22nd April, 54”—that is an impossible date; it must have been a mistake, because the ‘Bella’ had sailed before then—“Makes it very difficult to Commence this Letter. I deeply regret the trouble and anxiety I must have caused you by not writing before. But they are known to my attorney”—what “they” refers to, I have not the remotest idea—“But they are known to my attorney and the more private details I will keep for your own Ear. Of one thing rest Assured that although I have been in A humble condition of Life I have never let any act disgrace you or my Family”—How he could write that I do not know, when I recollect that in his cross-examination he, on more than one occasion, refused to answer certain questions—amongst them the important one, whether he had been charged with bushranging—lest he should criminate himself. However, the statement is so far justified and borne out by the fact which ought not to be forgotten, as making in the defendant’s favour, that according to Mr. Gibbes, throughout the whole of the time he was living at Wagga-Wagga he appears to have lived without reproach, and to have been respected by those to whom he was known—“I have been A poor Man and nothing worse. Mr. Gibbes suggest to me as essential That I should recall to your Memory things which can only be known to you and me to convince you of my Identity. I don’t think it needful My Dear Mother. Although I send them. Namely, the Brown Mark on my side. And the Card Case at Brighton. I can assure you My Dear Mother I have kept your promise ever since. In writing to me please enclose your letter to Mr. Gibbes to prevent unnecessary enquiry as I do not wish any person to know me in this Country. When I take my proper position and title. Having therefore made up my mind to return and face the Sea once more I must request to send me the Means of doing so and paying a few outstanding debts. I would return by the overland Mail. The passage Money and other expenses would be over two Hundred pound. for I propose Sailing from Victoria not this Colony And to Sail from Melbourne in my own Name. Now to enable me to do this my dear Mother you must send me”—The remaining portion of the letter is not forthcoming. The part we have was deposited with other letters and papers belonging to Lady Tichborne in the Court of Chancery. I

do not know whether it has been prominently brought to your attention, that when Lady Tichborne died, in the month of March, 1868, the defendant, as her son and next of kin, took possession of her property and papers; but his right to have possession of such things as next of kin being at that time in issue, an order was made that all papers and other things belonging to her should be deposited in the Court of Chancery; and it is thus that we have had so many of the letters from Roger to his mother and other papers which were in her possession, and by that means came into the defendant's hands, produced on the former trial and on this. One half of this letter, apparently a very important half, is not forthcoming. We know something of its contents from persons who saw the letter before it ceased to be forthcoming, but you have it not before you. One or two things are however clear from an answer which the Dowager Lady Tichborne wrote to Mr. Bowker with reference to various matters contained in that letter and from her correspondence with Mr. Cubitt and Mr. Gibbes. It is clear that there was in it some reference to his grandfather. Whether he sent a message to his grandfather, or whether he inquired after his grandfather, or whether there was merely an allusion to his grandfather, we do not know, not having had the letter before us; but that there was a reference to his grandfather is plain from what was said afterwards. There was also a reference to a horse called 'Plenipo,' besides the reference, in the part of the letter which we have, to the two things particularly specified as proof of his identity. Every one of those things is productive of further difficulty. With regard to the horse 'Plenipo,' there is no doubt that Roger did leave a favourite horse in the care of Mr. Gosford, with directions to take care of that horse. That fact seems somehow to have been known to the defendant; but that horse was not named 'Plenipo,' at least Mr. Gosford says he did not know of such a name, although he had the custody of the horse for several years; but there is evidence in the case which may explain how it came to pass that he adopted the name of 'Plenipo.' If you believe that the defendant was in the service of Mr. Johnston, of Mewburn Park, Mr. Johnston had a horse of the name of 'Plenipo;' and so the name may have passed into the defendant's mind, and in giving Mr. Gibbes an account of it, he may have applied that name to it. With regard to the grandfather, I shall have to deal with that by-and-by; and the Brighton card case raises issues much too important to be dealt with incidentally, but must be treated as a separate head by itself. I should here observe that we know, although it does not appear from the one half of the letter, that the sum the defendant asked Lady Tichborne to send out was 400*l.*; 200*l.* to pay his debts, and 200*l.* to pay his passage home.

On this occasion Mr. Gibbes also writes to Lady Tichborne. He

declined to remain in the subordinate position of agent of Mr. Cubitt, and to allow Mr. Cubitt to have the honour and glory and reward of a discovery, with which discovery he had nothing to do. He writes on the 18th of January, 1866, as follows: "Madam,—You will, ere this, I believe, have had a communication from Mr. Cubitt, in which my name is connected with the discovery of your son, Sir R. C. Tichborne. I have prevailed on him by this post to put himself in communication with you, and I have pointed out to him the necessity of mentioning any matters that may occur to him which can only be known to you and to himself, so as to satisfy you as to his identity. I believe he was only prevented from doing so long since by a feeling you will readily understand, as he will tell you. He has been following for some years a humble occupation, one totally incompatible with the position he is about to fill in life. His chief desire is that no person here should be able to identify him in his future station with him in his past one. I may mention that, lowly as he has been, he has not done anything of which he need be ashamed. He is very anxious on this point, and in thus vouching for him I have need to vouch for my own respectability and to refer you to Messrs. Faulkner and Gregory, of No. 1, Bedford Row, London, with whom I have from time to time during the last eighteen years been in communication. Sir Roger is indebted in some amounts (I don't know how much), and he is desirous of settling these matters at the time of his leaving—in which case the draft must be sent either to himself by his present name (which would probably lead to the discovery he so much wishes to avoid) or to myself, his only confidant—not a voluntary one, I can assure you, as far as he is concerned, but simply from the amount of quickness our profession all learn, or ought to learn, from practice. This last remark renders it necessary for me to mention what would otherwise have seemed out of place—that in any communication you may favour me with, you will have not to rely upon the honour of a man who is indebted simply to his profession for his title of 'gentleman,' but of one who is as well born and connected as your own son."

In thus writing to Lady Tichborne the defendant had taken a decisive step. The die was cast, and retreat became impossible. And here a question of some interest presents itself, namely, at what period the idea of resuming his position, if Roger Tichborne, or of assuming that name and character, if an impostor, first presented itself to the mind of the defendant, or first became matured into a fixed and settled intention. That the idea had entered into his mind at an earlier period than his acquaintance with Mr. Gibbs seems more than probable. But to fix the precise period becomes exceedingly difficult. I cannot think it can have been as early as the beginning of 1865, as it was then that he married, and I cannot bring

myself to believe he would have made such a marriage had he intended to assume the position of Roger Tichborne. But in the ensuing April we find him sending the Richardson letter, which, in one view of the case, you may possibly think was written with the design of putting forward a claim. If so, the thought must have crossed his mind by that time, though, possibly, it may not have assumed the form of a final and deliberate intention. Cubitt's advertisement in the Australian papers was published, we know, between the 22nd of July and the 4th of August. The paper containing it was brought by Slate from Melbourne as a recent paper. It is probable that the seeing this advertisement may have still further developed the idea. Then it is that he is seen openly smoking a pipe with the initials of Roger Tichborne cut on it. Besides which he tells us he was in the habit of carving these initials on trees and pieces of wood. There is also a striking coincidence between the date of the advertisement and the conversation with Gibbes on the subject of his property in England as creating a difficulty as to his passing through the Insolvent Court. Yet when Mr. Gibbes first professed to have discovered him—when Mr. Gibbes went up to him and said, "You are not going under your real name, either Christian or surname, and I know who you are," and the initials on the pipe were referred to—Mr. Gibbes tells us, or rather told Mr. Cubitt, in the letter we have before us, that the defendant was "hugely disgusted;" and the defendant himself states that when Mr. Gibbes told him that he had discovered who he was, he desired him to mind his own business, and not interfere in a matter that did not concern him. Now, was all this simulated, or was it real? Was he in earnest in representing himself as annoyed and distressed, or, according to Mr. Gibbes' strong term "disgusted"? Was the annoyance feigned, or was it real? A good deal of light, I think, may be thrown on the case generally by the view that may be taken on this point one way or the other. It may be that it was the honest expression of his own sentiments. It may be that he had no desire to return to his own station. He may have been satisfied with the life he was leading, and the humble condition to which he had voluntarily reduced himself. It may really have been from a desire and disposition not to return to the world. But then that supposed indisposition to return to the world seems hardly consistent with the zealous, earnest and ardent energy with which he has sought to recover his rights, both as regards rank and estate, from the moment he did come forward. For no man could have been more strenuous in asserting his claim: no man has been apparently more indignant with those who, professing to disbelieve in him, have sought to stand in the way of that claim being established. And, again, I cannot but observe that if his reluctance to be discovered and put before the world as Sir Roger Tichborne had been genuine and real,

one cannot help supposing that he would have been more strenuous to conceal the fact that he was Sir Roger. There was no necessity for acknowledging the fact to Mr. Gibbes at all; it would have been very easy to deny it, and to have said, "Mr. Gibbes, do not interfere with me, telling me I am Sir Roger Tichborne; I am nothing of the kind;" and certainly one does not find in the course of the defendant's conduct that scrupulous and nice regard to truth which would have stood in the way of his telling a falsehood to Mr. Gibbes, to throw Mr. Gibbes off the scent, if he had desired to do so; and even supposing he was discovered, even supposing he did not choose to deny the fact which might have become patent, what was there to compel him, because he was discovered to be Roger, to leave the colony? He was not like a school-boy who had run away from school, who might be caught and brought back again, and punished for his truant conduct; he was not like a criminal who might be seized and taken back to his gaol in fetters; and we know what the inflexibility of Roger's character was, and this is one of the instances in which the proper knowledge of his character, as derived from the correspondence and facts connected with the history of the undoubted Roger, comes into play. Do you think his allowing himself to be apparently forced into action is consistent with the character of Roger, who never followed anybody's advice, who never was influenced by anybody's wishes, who always acted on his own will and determination? If Roger had chosen to lead the life which the defendant led in Australia, it would have been all very well to tell him that he was discovered, and how anxious his mother was to see him at home; he would have said, "What care I for my mother? I will not go home. She makes of it a hell upon earth." One of the last letters he wrote, you recollect, expressed a desire that, if his father had not made some provision for his mother, provision might be made for her, for nothing should ever induce him to live in the same house with her, and therefore a separate residence must be provided. And certainly, a son who had left his mother in suspense for twelve years as to whether he was dead or not, was not likely, if he preferred such a life as he was then leading in Australia, because that mother wrote to him a whining letter imploring him to come home, to yield to her solicitation. I cannot but think, therefore, that there are circumstances which require to be taken into consideration before we come to the conclusion that he was sincere in the representation that he was annoyed and disgusted at Mr. Gibbes having discovered who and what he was. It may be a not unwarrantable inference to say that the feeling he exhibited was not genuine and real. If it be true that the defendant had not conceived the intention of coming forward and claiming to be Roger Tichborne, how shall we account for the fact, which he himself states, of his doing, as regards outward

appearances, so many things which were calculated to have the effect of leading people gradually to the belief that he was Roger Tichborne? Why were the initials cut on the pipe? Why, as he tells us, was "R. C. T." cut on trees, and on any piece of wood that happened to come to his hand, a thing which he represents himself as doing for a considerable period. "R. C. T." was Roger Charles Tichborne. No doubt he might have amused himself in his solitary hours out there by cutting his name on any piece of wood that came to his hand, though one does not hear that it was a thing that Roger ever did; and it is not a thing which people are in the habit of doing, as far as I am aware, in the way the defendant represents. In the days of pastoral poetry we have heard of shepherds and lovesick swains who went about carving on the bark of trees the name of the ladies they loved, but people do not nowadays go into the woods and cut their names on trees. It is not a thing that either Roger Tichborne or the defendant would be likely to do, if desirous of concealing the fact of his being the true Roger, and of not being brought to light as such. It appears that the defendant was in the habit of doing this, and doing it to a pretty considerable extent. You must form your own judgment whether it was done for the purpose of preparing the way for his assuming the character of Roger Tichborne. On the other hand, the appearance of reluctance may have been assumed from a dishonest motive; it may have been that he put on the pretence of this reluctance to be dragged into light as Roger, instead of being allowed to remain in the obscurity of the station he had been filling, because it might give to his present life the character of self-imposed exile and voluntary retirement, and so account for his silence and social degradation for so many years. Or, it may have been real in another point of view—not that he would not have been glad to be discovered, or to be believed to be discovered, not that he would not have been willing to come forward as Sir Roger, but because he was not then prepared to take that step. It may be that, inasmuch as to enter the lists as Roger, claiming, as against the party in possession, the title and estates, required, if he was not the true man, no small amount of nerve and courage, he had not yet braced his nerves to take that step, which once taken could not be withdrawn from. It may have been that this scheme or idea, though in embryo in his mind, had not developed itself; or that he was not sufficiently furnished with information and materials to enable him to make the first move towards putting it in execution, although he had conceived the project of doing so eventually. The answer to the Richardson letter may not have been so satisfactory as he could have desired. His information as to the Tichborne family, and as to other facts which it would be necessary to have knowledge of, if he did come forward, may not have been sufficiently provided. All these

things are mere speculations, but they are possibilities which one has to pass through one's mind before one can come to an ultimate conclusion; and there are further circumstances which come in as part of the case, and which tend to throw light on the question we are seeking to solve.

Adverting to the various circumstances which tend to throw light upon the period at which the defendant first conceived the notion of coming forward as Roger Tichborne, either because he really was so, or because he thought proper to assume the name, it certainly seems to me, that although it may have been in embryo only, the idea must have been in his mind for some time before he really did come forward, from the circumstance, among others to which I have referred, of his having cut out his initials in numerous instances, which though it may have been from a fond recollection of his original state and condition, would more probably proceed from a desire to draw the attention of those by whom he was surrounded to the fact of his having these initials, and thence to lead the inference that he was the person with whose name those initials would correspond. When he cuts his initials on his pipe in the same way, it is difficult to suppose that that was not done with the intention that that which did take place should take place, namely, that those initials should be observed and made matter of inference as to who and what he was. Still, I cannot conceive that he had any definite intention on the subject until he saw the advertisement, which we know could not be earlier than July or August in that year, 1865. There are one or two things that make one think the intention cannot have been conceived at a very remote period, among others the marriage in the year 1865. I have already pointed out that it is unlikely that a man who intended to assume, or resume, the station of Roger Tichborne would have made that marriage; equally so, that if he had intended to take his position as the head of an old Roman Catholic family, he would have had his marriage celebrated in the manner in which that marriage was celebrated.

It was, I should imagine, about this time that he began to make those entries in his pocket-book, which are certainly of considerable interest in the inquiry. There are entries in the Reardon pocket-book, not of a very important character, but still not unworthy of attention, where he begins to write "Tichborne." Now this must have been at the time when he was in the employ of Mr. Higgins. Reardon was a man also in Mr. Higgins's employ, and when the defendant left Higgins, this book fell into Reardon's hands. It was not the defendant's book, or Reardon's, but Higgins's. You have the "R. C. T., Hampshire, England," twice over. Then there is, besides the crossed swords, that curious hieroglyphic, as we called it, the two C's put back to back. It has not the complete mark which

Arthur Orton's hieroglyphic has; but there is what, to use the language of the learned counsel for the defendant, may be called a "rudimentary" hieroglyphic. The idea of "R. C. Tichborne, Hampshire, England," must therefore have suggested itself to the defendant's mind before he left Mr. Higgins's employment. Then come the entries in his own pocket-book, which are certainly remarkable, and deserving of particular attention, and which, as far as one can judge, were probably made about this period. This is on the first page: "Thomas Castro, Wagga-Wagga, Roger Charles Tichborne, Tichborne Hall, Surrey." I imagine that must have been written at a period antecedent to the time when he met with the Hampshire man, Slate. If Slate knew anything at all he would not have told him Tichborne Hall was in Surrey. But would Roger Tichborne have made such an entry? In the first place it never was called Tichborne Hall, the proper name being Tichborne Park; still less would he have been likely to have put Surrey as the county in which that property was situate. Then we have "Melipilla, South America," "Rio de Janeiro," "Rio de la Plata," and "Buenos Ayres." What those names are put down for I do not know. Then there is "Love paid one shilling, Oliver balance 2s. 6d." That is something that does not concern us. Then there is "Melbourne, 18th August, Rio Janeiro South Amerika, T. T. South America." Then "R. C. Tichborne, Bart., Tichborne Hall, Surrey." Then there comes this, "Lost on the 13th September, this day in Wagga-Wagga, those that found it are welcome to keep it, two cases in the Small Debts Court, one for 6 pound and one for three pound sixteen shillings." Then there is this curious insertion, "Some men has plenty money and no brains and some men has plenty brains and no money. Surely men with plenty money and no brains were made for men with plenty brains and no money. R. C. TICHBORNE, Bart." Here I must say I think "R. C. Tichborne, Bart.," had no business to usurp a passage that does not belong to "R. C. Tichborne, Bart.," but which belonged to Miss Braddon, and still less to change Miss Braddon's language into such very unmistakably vulgar vernacular as that in which this sentiment is conveyed. I said at the time it was read, I was sure it was not Miss Braddon's language, and that talented authoress did me the honour to send me a copy of "Aurora Floyd," in which the passage occurs, and she led me into bestowing some time (which ought perhaps to have been devoted to considering this case) to reading that very interesting novel. I read it from beginning to end. I was bound to do so in honour and gallantry, and I find this passage, and a very good passage it is. She puts it into the mouth of a crafty and guilty person, who turns out to be a great scoundrel, and in whose mouth the language is exceedingly appropriate. It runs

thus: says this man, "I should think fellows with plenty of money and no brains must have been invented for the good of fellows with plenty of brains and no money, and that's how we contrive to keep our equilibrium in the universal see-saw." Very epigrammatic, and very happily expressed. It is only due to Miss Braddon to say that that is her language, as contrasted with the language in which the sentiment of one of her characters in this book is clothed by the defendant.

The next entries are "Sir James Tichborne," "R. C. T." "R. C. Tichborne, Bart., some day I hope." Now it has been asked on that, and the observation is deserving of notice, is it likely that a man who knew, even if he was not then Sir Roger Charles Tichborne, Baronet, that he would thereafter be entitled to that rank, and that nobody could deprive him of it, would say "some day I hope?" Then comes a very remarkable entry indeed, "La Bella, R. C. Tichborne, arrived at Hobart Town July 4th, 1854." What can be the meaning of that? What was passing through the mind of the writer? "*Arrived at Hobart Town July 4th, 1854.*" What do you gather from it? Was it his intention originally to have represented Roger Tichborne as having landed at Hobart Town, and not at Melbourne? I am at a loss to conceive what else it can mean. There it is. A curious point also arises with reference to the date of it. There is, on the same page, "Stephen Butts Metrop." Now we know that Butts kept the Metropolitan Hotel at Sydney, and as it occurs on the very same page with "La Bella, R. C. Tichborne, arrived at Hobart Town," &c., this being written in the transverse way, and "Stephen Butts Metrop." above it, while below it there is "Sir Ja. Tichborne Baronet Tichborne Hall," you may perhaps think that the conclusion from that must be that this was written at Sydney, as it was there that he became acquainted with Stephen Butts of the Metropolitan Hotel. If that be so, it must have been as late as the time of his being at Sydney that he laid the scene of his landing at Hobart Town. There the entry is, and very remarkable it is, as it makes Roger Tichborne arrive at Hobart Town instead of arriving, as he afterwards represented, at Melbourne.

Other entries follow, "Richard Nevill Slate," "Thomas Castro," "Rodger Charles Tichborne," the "Roger" being written with a "d"—a manner in which Roger Tichborne never could have thought of writing it. Then comes "R. C. T. Bart. Tichborne Hall Newmarket Surrey London England. Thomas Castro Wagga Wagga New South Wales Australia." "I Thomas Castro do hereby certify that my name is not Thomas Castro at all. Therefore those that say it is don't know any think about it R. C. T." Lastly there is, in the same handwriting, the interesting recollection, if not of the

writer, of somebody else, at whose instance he has written it down, "Miss Mary Ann Loder 7 Russell's Buildings, High Street, Wapping, London." That is the last of the entries in that remarkable book.

I have already pointed out with reference to the time at which the defendant made up his mind to come forward, that we have the date of the marriage in January, 1865, and of the Richardson letter in the April afterwards, which seems to be connected in some way—it is for you to say whether it was or not—with the idea of his coming forward—then the initials, and the exhibition of them. The question is whether this idea may not have been conceived, and have been present to the mind of the defendant, some time before he really determined on taking action in the matter; and, whether the interference of Mr. Gibbes may not have precipitated matters, and hurried them on much more rapidly than the defendant (whether he was Roger Tichborne, or whether he was not) had probably intended. For you see, he was placed in this position. If he intended to come forward, whether in what he knew to be a real character, or in what he knew to be an assumed one, at a later period, but Mr. Gibbes intermeddled, and said, "I have discovered who you are; You are Roger Tichborne, and the initials on the pipe show it; You would never have put 'R. C. T.' there if you were Tom Castro—You must be Tichborne;" he became placed in this awkward dilemma: if he gave a denial, it would very seriously interfere with his position when he really did come forward; if, on the other hand, he admitted it at once, it might hurry him into a course of action for which he was not prepared. What should we expect of a man under such circumstances? He would coquette about it, and not altogether and absolutely admit the fact for some time, but after a certain time, finding he must take a step one way or the other, and either admit himself to be Roger Tichborne, or else, if he denied it, be involved in difficulty afterwards, he would surrender at discretion and say, "I am Roger Tichborne, and will tell you all about it." This may have been the case. He may have been thus induced, although reluctantly, to admit he was Roger Tichborne; perhaps he was annoyed, in the first instance, at having his intention or scheme hurried on by the interference of Mr. Gibbes before he was prepared to disclose himself, and yet as a matter of discretion may have found it necessary to take a decided course earlier than he otherwise would have done, more especially when, at the end of 1865 or beginning of 1866, he got into such a serious state of distress that he was obliged to have recourse to Mr. Gibbes's assistance for small sums, while Mr. Gibbes was urging him on to declare himself and write home for assistance. There is a fact which ought not to be overlooked, and that is, that when Mr. Gibbes by pressure on him induced him to admit that he was Roger Tichborne,

he did so only under the stipulation that Mr. Gibbes should not reveal his secret until the ensuing month of March. Why was that? If he was Roger Tichborne, and was now willing to come forward, why should he want him to do that? The answer which suggests itself—I do not know whether it is the right one, I only throw it out for your consideration—is that he was not prepared, because he had not got the materials which he required, or that, if he was not the real man, he was reluctant, and wished to have as long a delay as he could before he finally committed himself. In the sequel he spontaneously anticipated the time by writing to Lady Tichborne in January; but this, as I have said, may have arisen from the desperate state of his circumstances. It is about this time that we have him writing to Mr. Gibbes: “Please let me Have one pound before you go home I will be at Higgins until seven. I want some silver very particular.” And again: “Dear Sir, If you could spare me two pound I shall feel obliged I wish to settle with Cater the baker before he leaves for England If its convenient you can Likewise send me an order on Love for three pound.” We shall also see what he writes on the occasion of his wife’s confinement. Those are the circumstances connected with the time and the occasion of his coming and standing before the world as Roger Tichborne.

Mr. Cubitt next takes up the correspondence, and he writes to Lady Tichborne as follows: “January 23rd, 1866. My dear Madam, — Everything progresses satisfactorily with reference to your son. Nothing now prevents his departure but the want of the necessary funds. No doubt, under ordinary circumstances, the banks would advance this, but as you have omitted to give me any particulars by which he can be identified, I cannot prove beyond a doubt that he is the right person, although I believe he is.” Here I cannot help observing that it certainly is surprising, that when Lady Tichborne is told that there is some one who asserts himself to be her long-lost son she should not, in answer, have pointed out the particulars by which his identity might, according to her knowledge, be established and confirmed, and that she had to be reminded of that by the people out there, which exposed her to the observation, “Why, you have never told us anything about him whereby we can identify him.” You will see what she does in this respect further on. Mr. Cubitt continues: “I now quote from the last letter received from one of my agents”—as if he had a great many—“and dated January 13th, 1866: ‘You need not expect Mr. T. to start unless he can leave some money behind him to meet his necessities: the fare to Sydney will be 10*l.* 15*s.* I find from observation—his nose straight, eyes grey or greyish blue, mouth rather narrow, with a retreating expression, subject formerly and still occasionally to a nervous twitching termed by some St. Vitus’s Dance. Although he

has descended in the social scale his character for honour has stood unimpeached by any. Have you told Lady Tichborne about the pipe he smoked having R. C. T. scratched on it?" He then goes on: "In conclusion, I may mention, madam, that without funds it is impossible for him to leave the colony; these must be supplied, and they shall be used by me with a due regard to your interests, and that of your son's." Next, Mr. Gibbes, in answer to a former letter from Mr. Cubitt, who had proposed to come and see him, writes to Mr. Cubitt on the 27th of January: "Sir R. C. T. won't hear of any one else seeing him up here. He has written to Lady T. by last mail for a considerable remittance, and has mentioned matters that will prove his identity to her beyond doubt. Thus the matter must rest for the present until you write to Lady T. mentioning her son's letter and claiming for the discovery. That, I think, I should leave to her liberality, and if you were afterwards dissatisfied with the amount, you could say so."

On January 26th, 1865, the defendant writes to Mr. Cubitt the following letter, which is characterised by most of the peculiarities of the defendant's writing. "Mr. Cubitt Sir Mr. Gibbes has shown me a letter in which you state you have received. News. of great imporance from my Mother I requested Mr. Gibbes to write to you. To know if the News you allude to is merely my whereabouts. Or anythink connected with the Estates I believe He has received an answer from you. But has not sort proper to let me know your answer. Mr Gibbes has no doubt made it known to you that I have wrote to my Mother though him. I wish you to let me know What power my Mother has envested you with. or weather you have received any advances from her If you have not. let me know what your charges are for advertisements and er are"—a singular way of writing "et cætera"—That I may settle them before leaving the colonoly. Has most likely on receipt of answer to my letter I may proceed to England via Melbourne. I dont wish my Name or title to be known in Wagga. therefore Address your letters to T. C. post office Wagga Wagga. You have no need to let Mr. Gibbes know that I have Cummucated with you. He seemed not to wish me to do so. For what reson I dont know. But most likely I shall find out yours truly Roger Charles Tichborne."

On the 15th of February Mr. Cubitt writes again to Lady Tichborne: "My dear Madam,—In my last letter to you I communicated the fact that the search after your son was progressing satisfactorily. Since then I have had letters from my agent at Wagga-Wagga and one from your son. The latter I enclose. From the tone of the correspondence from Mr. Gibbes, and from statements contained in your son's letter, it appears to me that an attempt is being made to deprive me of the emoluments dependent upon the

success of my search ; but I desire to remind you that by my instrumentality alone has the discovery been accomplished ;”—that is to say he put the advertisement in the paper—“my agent having found Mr. Tichborne through the means which I adopted for the purpose, and that it would be unjust towards me to recognize any other than myself in the transaction. Already I have been put to a very great expense”—he should have said the expense of the advertisements—“and for whatever assistance I have received it is my province to compensate my servants in the transaction, and not theirs to make any claim upon you. Mr. T. is resolved upon maintaining his incognito, and is so anxious to avoid the chance of a recognition, that he will not throw off the disguise while in this colony. Mr. Gibbes, in his letter to me of January 27th, '66, says, ‘Mr. Tichborne has written to his mother by last mail for a considerable remittance, and has mentioned matters that will prove his identity beyond doubt.’ I am not aware of the contents of this letter, but if you be satisfied with it, it will at least convince you of the earnestness of my search, and of the entire truthfulness of all the statements contained in my correspondence. Circumstances have come to my knowledge which convince me of the danger of entrusting any funds to the immediate charge of your son. Engaged in a menial capacity, involved in debt, and unable to leave the colony until these liabilities are settled, to say nothing of a most extraordinary indifference to take up his proper position in society, you may rest assured that a sudden acquisition to status and independence may have dangerous results if funds be placed at his unlimited control, and I most seriously advise you, if you attach any value to the return of your son in the midst of his family, not to throw away the only chance of securing such a desire. I am prepared to carry out all your wishes and ‘fetch him to Paris,’ but all attempts to do so will prove abortive if you listen for a moment to the application from your son to supply *to him* the funds for his return. From my remarks you may suppose I keep something concealed. I do not deny it, but I am in many points pledged to secrecy for the present. In due course you will know all, but statements in detail at the present moment would probably induce your son to remain where he is, and after having thus far been successful, it is my aim to consummate your wishes in their entirety with satisfaction to you and with honour and reward to myself.” Then he says as a postscript : “I think any money you send should be placed in the custody of the bank or some responsible party, with instructions to them and to me.” It is obvious that Mr. Cubitt was alarmed lest the further management of the affair should be transferred from himself to Mr. Gibbes.

Next comes a letter of the Dowager Lady Tichborne to Mr. Gibbes in answer to his letter of the 18th of January : “Your welcome letter

reached me only yesterday. I had been anxiously expecting it. I only regret that there is no more details about my dear son's circumstances, and I feel much grieved at the idea they may be very bad. I am anxious to know more about it. The only thing is that if Roger would consent to say who he is to a banker, I am almost certain the other would advance him money. My opinion is and also my wish is that you should go immediately to speak yourself to my son and arrange the things personally with him, so that you may start to come to join me immediately, a thing of that sort ought to be done instantly and without losing a moment in deliberations, as if Roger has contracted some intimacy there, they will perhaps do everything in their power to keep him there and prevent him from coming over to me. I think it will be necessary that you should accompany him till you have brought him safe to my hands; that is I think absolutely necessary. I am going to send you a cheque for 40*l.*, which I will ask Mr. Callaghan to forward to you, as I suppose he knows some bankers at Sydney, you will then have money enough and even more than you want to go to see my son, as I am told conveyances are not so expensive there as in England. As Mr. Callaghan will advance me the money and more if necessary, I find it is necessary to tell him my object in sending money over to Sydney. he is a friend of the family and knows all about my son and his very strange disappearance. The secret"—she translates here from the French, and uses the phrase "the secret" for "secrecy"—"the secret that I wish to keep is only of course till I can either speak or write to Roger myself, and my reasons for doing so you will very well understand if I was to mention them in this letter; but of course the secret that I recommend will only be for 5 or six months, but as for the reward and all the expenses you need not have a doubt of course from the income that Roger has a right to have. He has unfortunately lost his poor father; had he been there he would have come to an income of at least 12*l.* thousand a year and even twenty, besides that it will increase later; there has been of course difficulties after his dear father's death, however when he comes he will have a very fine revenue, therefore it is something wonderful to me his remaining hid under a feigned name I do trust and hope that you will succeed in bringing him over to me as soon as possible. there is a man of colour at Sidney who could tell you how the family stands, his name is *Bogle* and is quite black. Roger knows him very well, he was valet to Sir Edward Doughty uncle to Roger and he lives now at Sydney. Sir Edward Doughty Tichborne left him 50*l.* a year and with his savings he can live at Sydney he says pretty well. I do not know his address at Sydney and only know he lives there but I am afraid that man as soon as he has seen Roger will write it back to England immediately and I am afraid of the consequences which would be bad

if not attended to. I am very sorry indeed that you did not go over to my son as soon as you received my last letter as letters being so long a time coming it makes that business go very slowly Still you may conceive how desirous I am to see my son. I believe I said in my last letter everything that can be said on the subject and I beg you to be so good as to read it over again. I will again remind you"—Gentlemen, I ask your attention to this passage; it may be important by-and-by, when we come to another subject—"I will again remind you of the necessity to ascertain whether Roger has some particular intimacy or whether he is married and has children, it is a very necessary thing to know."—Does that imply the possibility or the impossibility of marriage and having children? I leave you to judge—"I will write a letter to him, you will be so good as to give it him and ask him was it only for your own personal satisfaction and answer it immediately I hope and I am almost sure he will follow you here immediately when he knows I am expecting him and that his poor dear father is no more. as for the money you need not have the least fear as everything will be repaid to you, only the business ought to get on and not stand still as it does now and I cannot help repeating once more what I said in the beginning of this letter that I regret very much your not having gone up to my son immediately after you received my last letter. The 40*l.* that Mr. Callaghan will forward to you are to pay for the expenses of your journey up to him and also to pay his journey back to Sidney where I suppose he will go before leaving Australia, but you know better what plan you must follow and how you are to act to bring him to Paris as soon as possible when he has written to me and that there is some proofs of his intention to come to join me I have no doubt Mr. Callaghan will more easily advance the money, either him or my solicitor in London, but of course it is more difficult as long as there are doubts about him. With fervent hopes that this very important business may succeed I remain sincerely yours. when you see him you may remind him that he promised his poor father to come over to be my protector if he was to be taken from this world." You observe that in this long letter she gives, from the beginning to the end, no trace whereby her son may be identified.

The thing goes on; and in the month of March we find the defendant in very serious difficulties. He had given up his employment at that time, and was doing nothing, and was without funds; and he writes thus to Mr. Gibbes: "Wagga-Wagga March 14th Dear Sir—My reason for writing instead of seeing you personally is I am really ashamed of troubling you so often. Your kindness to me Will be remembered more than a Medal of Honor on my breast. What I wish to consult you about is this, my being Idle is drawing remarks from many And what to do I no not I dont wish to leave

the Town before we receive our letters from mother Which I hope will not be long first. But how to live in the meantime is what troubling me. I paid the Baker with part of the Cash You were so kind to lend me I do not wish to impose on your good nature for more cash. But what I wish you would do is to speak to one of the storekeepers to let me have what necessaries I would require for the House If you think you could do so with safety. I would rather it be Mr. Forsyth if anywhere. I expect Mrs. Castro will be confined before Saturday. And believe me Sir I am more like a Manick—I suppose he means a maniac, but he has left out the “a”—“than a B of B. K”—that has been interpreted to mean a Baronet of the British Kingdom—“to think that I should have a child born in such a hovel. I Remain Dear Sir your Truly Roger Charles Tichborne.” Imagine a man with 20,000*l.* a year reduced to such circumstances—to the necessity of writing such a letter as that! We have here the culminating point of these twelve years in Australia—a life of toil and labour, of wanderings without certain or fixed employment, an unsettled life without house or home, of servile employment, of attempts at trade followed only by failure, of harassment, distress, and painful privations. How can one understand it? One naturally asks oneself the question—it may be capable of a solution favourable to the defendant—but as rational, thinking men, we cannot avoid the question which forces itself on our attention—Is it possible that a man, with all the means of enjoying life which affluence gives, could thus voluntarily submit to self-imposed exile, homelessness, penury, and privation? What explanation is attempted to be given? The flighty theories of the learned counsel for the defendant we have already passed in review. They are hardly worthy of criticism, they are like bladders blown by a child in childish sport, which have only to be grasped to disappear. What does the defendant say? I must say I prefer his manly, simple explanation to the gossamer theories of his counsel. He says: “I had made up my mind that I would not return to England while my father was alive.” I have called your attention to the correspondence from South America, and especially to those passages which relate to any intention on the part of Roger of staying abroad or returning. I certainly can find none which would imply that he never meant to return so long as his father was alive; the utmost that it comes to is that he would not go to live at Tichborne so long as his father was alive, on account of the domestic differences which existed between father and mother, and in which, when at home, he found himself mixed up as an unwilling party. There are passages which imply that he would not live at Tichborne, but none that he did not intend to come back and enjoy the income, which was his own independently of his father. One has a difficulty to understand how, if the defendant is Roger, he

not only submitted so long to this sort of life—a life of poverty and privation—having all the while an income of 1,000*l.* a year which he does not condescend to touch—but also remained careless all the time as to whether his father was alive or dead, the fact turning out, in the result, that he is going through this life at a time when the father had been dead for several years, and he had thus become entitled to all the advantages which his rank and position and the ownership of large estates would give. That is a matter for you to consider. I do not say the thing is impossible. It may be that eccentricity, or some motive which I have failed to discover, may have led the defendant to adopt this course, and to be indifferent whether his father was alive or dead—may have led him voluntarily to embrace a life of this sort, to renounce society and all its advantages, to give up fortune and the enjoyments it brings, and continue in a sphere of life so apparently undesirable, till dragged from obscurity and induced to take his proper position only by the interposition of Mr. Gibbes. The matter may possibly be so viewed by you; but you must consider whether you think that is a result at which you can satisfactorily arrive.

On the 19th of March the defendant's wife is delivered of a daughter, and he writes to Mr. Gibbes: "Dear Sir,—All's over. A girl. Both doing well. Nurse would not come without three pound down. Oblidge by sending two pound under cover by the bearer.—Yours truly, R. C. Tichborne."

A daughter having now been born, as the foregoing letter shows, the defendant has her christened by the names of Mary Agnes Theresa. Now the names of the lady whom Alfred Tichborne married are Theresa Mary Josephine, and it strikes me as an odd coincidence that out of the three christian names which the defendant gives his daughter, two should be those of the brother's widow, more especially as the name of Theresa is an uncommon one. The coincidence is the more remarkable since, as Alfred did not marry till 1861, long after Roger left, Roger could not have known who the wife was or what were her names. The names of Alfred's widow are, it is true, stated in the 'Illustrated News,' in the account given of Alfred in the Obituary. Whether the defendant found them there, and adopted them as family names, or lighted on them accidentally, can of course only be matter of conjecture. But the coincidence may tend to strengthen the belief that the defendant may have seen the account of the family in the 'Illustrated News.'

On the 28th of the same month, the defendant writes again to Mr. Gibbes for money: "Dear Sir,—I should have come to see you to-day. But unfortunately I got a slight Tuck of a Sun stroke yesterday afternoon crossing the racecourse. And am not able to hold up my head to-day. I have no doubt you think I am drawing

too much Cash. When I ask you for five pound more. But there ware so many things I could not do without for I would not like my Child to have been born wanting any think. But I will try and manage without drawing any more for some time. If you will obllidge by sending five pound by the bearer. I want to see you about the regeratering of the Child as soon as I can get down.—Yours truly R. C. Tichborne.” The word “register,” which occurs again hereafter, is a stumbling block to the defendant.

I must next draw your attention to another somewhat remarkable letter. There was a man of the name of Cater, who carried on the business of a baker at Wagga-Wagga, and he was about to come to England. He receives from the defendant a letter indorsed “To be open when at Sea.” The letter is in these terms: “Wagga Wagga April 2./66. Mr. Cater At any time wen you are in England you should feel enclined for A Month pleasure Go to Tichborne in Hampshire Enquire for Sir Roger Charles Tichborne Tichborne. Hall Tichborne And you will find One. that will make you A welcome Guest But on no account Memsion the name of Castro. Or alude to me being a Married Man. Or that I have being has A Butcher You will understand me I have no doubt Your truly Thomas Castro. I sail by the June Mail.” It is plain, from this letter, as well as from Mr. Gibbes’s statement, that the defendant desired to conceal two or three things; one that he had assumed and had gone by the name of Castro; another that he was married; and, thirdly, that he had been engaged in the butchering business. It is clear that he wished to leave the colony without its being known that he was about to claim the name and title of Tichborne. He had originally contemplated leaving his wife behind and concealing his marriage. What could be the motive for concealment in these respects? First, as to his having been in the butchering business. No doubt it was improbable, at all events at first sight, that a man of rank and fortune should become a stock-keeper and afterwards a horse-dealer, and afterwards a butcher’s man. At the same time there was nothing discreditable in it. If a man is in circumstances which require him to find some means of earning a subsistence, so long as he follows an honest calling, there is nothing disgraceful in it. Still one can quite understand that, inasmuch as it is improbable that a man of rank and fortune would adopt any servile calling as a means of subsistence, it might strike the defendant that it was desirable to leave the colony without it being known that he had condescended to a social degradation of such a sort. He may have thought that people might not be likely to believe in him if they knew these circumstances; and even that the Dowager Lady Tichborne, with all her anxiety to find her long-lost son, might be a little staggered if the whole of his life in Australia were brought to her knowledge,

which, by the way, it does not appear ever to have been. If in the course of his various ramblings, he had come into contact with persons who had known him by the name of Castro, or some other assumed name—for he says that he went by another name at another time—or who knew him by the name of Orton, he may have thought that some of these persons might afterwards prove troublesome to him, either in the interest of justice or in the hope of obtaining some reward. Such thoughts may have passed through his mind. On the other hand, it may have been simply a sense of false pride. He may have said to himself: “ I do not choose, when I take my position as Sir Roger, and appear in the world again as a man of rank and fortune, that anybody should know I have condescended to employments not consistent with my proper station, and to which I certainly should not, if I had taken my proper rank in the world, have condescended to degrade myself.” It may have been simply false pride, or that, knowing himself to be Roger, he naturally felt that those circumstances would militate against his being received by the world, and seriously interfere with the prospect of making his claim good. Again, with regard to his marriage, it is quite clear, from that letter to Cater, in which he desires him, if he comes to England, not to reveal the fact that he was a married man, that he had intended, up to the month of April—though he changed his mind afterwards—to conceal his marriage. Now, what could be the motive for that? It is not possible to solve that at once to one’s satisfaction. It may have been that he thought it would very much detract from the credit people would give to his assertion that he was Roger Tichborne to find that he had married one so very much beneath him in station and position, and might lead them to say, “ Roger Tichborne never could have done that.” He may have been conscious that it would be seriously to his disadvantage; and, therefore, have desired in the first instance to conceal the fact of his having made such a marriage. But while we may in candour admit thus much, on the other hand one cannot shut one’s eyes to the fact that, if this was so present to his mind at this period, it would have naturally suggested itself to his mind when he made that marriage. He may also have thought that such a marriage would indispose Lady Tichborne to receive him as her son; and, therefore, may have desired to conceal it from her; and although such a concealment would be a very dishonourable thing between a son and a mother, yet it may have determined him to adopt that course. He seems, however, afterwards to have made up his mind to take his wife with him. Probably, whatever may have been his intention on the subject at the time of his writing to Cater, his feelings as a man and a father afterwards got the better of his judgment, and he determined, let the consequences be what they might, to take his wife and

child to England; and he did so. Certainly that is an infinitely more probable conclusion to arrive at than the one suggested by the learned counsel for the defendant, which is, that he knew his mother would not believe in the possibility of his being a husband and father, and therefore desired to conceal his marriage from her, lest it should produce in her mind a disbelief in him.

At this date Mr. Cubitt began to think it was time that things should be progressing, and he thinks it necessary to stir up Mr. Gibbes, and he writes to him thus: "April 18th, 1866. My dear Sir,—I have kept thus long silent respecting Roger Tichborne, in anxious expectation of hearing from his mother, and receiving the promised reward; this mail a letter came, but no money, explaining, however, the cause, namely, inability on her part, and stating that it must be paid out of the estate, which she cannot touch. She again says the reward will be very handsome, begs there may be no further delay, and insists upon my taking him to Paris. She no longer solicits secrecy in the matter. Things have now arrived at such a position that you must no longer remain silent, but aid me in bringing this search to a conclusion. I have promised you your share of the spoil"—an unpleasant expression—"and as we are both interested we must both work together. I have no doubt in my mind that our efforts will be repaid, but if you have really got the right man, both he and you must, as far as is necessary for the purpose of identity, throw off the mask. Please let me hear from you by return of post, and oblige, yours truly." But Mr. Gibbes, who had got the man in hand, and who was (to use a modern phrase) master of the situation, was by no means disposed to hand him over to Mr. Cubitt; he is determined to keep him, and that the merit of discovering and restoring him to his fond and expecting mother shall be his, and so he leads Mr. Cubitt to suppose that Roger is not residing at Wagga-Wagga, where Mr. Cubitt might some morning have arrived and possibly found him, and gives him to understand that he is living at some distance; so he writes, "I rode over to Sir R. on receipt of your letter. He has written home for money to take him home and leave a balance for other purposes—we wrote *viâ* Marseilles, and unless Lady T. was out of the way, or the mail delayed, we shall hear by next mail. He wrote in such a way as to convince his mother of his identity, but in order to provide against anything happening to him we are going to have several photographs taken of him in different positions, so that the relatives may recognise him. He has not the slightest doubt of the executors sending him money immediately"—Who on earth he could mean by "the executors" I do not know. It would look as if he were taking something under his father's will, otherwise there could be no executors. The executors of his own will would be paralysed the moment they heard

that Sir Roger was forthcoming; and there was no loose personalty available under his will, nothing but the income of the estates, which was directed to be applied in a specific way; so that there could be no funds in the hands of his executors applicable to such a purpose at all—"so things must remain in *statu quo* until the arrival of the May mail, which he awaits with some impatience. But if it should by chance not bring the required cash, do I understand you to mean that you are prepared to advance the money for his passage and outfit? But I am sure the money will come by the June mail. Please answer my inquiry, as I could, perhaps, then start him at once, in case we don't get money next mail. He won't go by anything but the overland mail, and will sail in his right name. He purposes returning to the Colony." Mr. Cubitt answers, "May 2nd, 1866. My dear Sir,—I thought that my last letter to you would have induced you to be more candid and explicit in your reply. I enclose herewith a letter for Mr. Tichborne from his mother, which you will be good enough to deliver. Lady Tichborne assures me that it is impossible for her to advance the money for his passage home, but that I must fetch him, and that the expenses, together with the reward, will be paid me at Paris. She has promised to send me out of her own resources the means to get him to Sydney, and says she can do nothing more, as Sir Roger's estate cannot be touched in his absence, as the executors have at present declined doing so in the absence of satisfactory identity. It appears, therefore, it will devolve on me to take him home. The mode of transit to England must be suited to my own convenience, but, of course, a passage suited to his position in society will be provided, and the speediest mode, with a due regard to economy, will be availed of." To that Mr. Gibbes answers by telegram: "Send twenty pounds, telegraph or letter, he will start immediately. Reply by telegraph." Mr. Cubitt replies by letter on May the 8th, "I was somewhat surprised at the character of your telegram. You persist in a system of perfect seecreey, and at the same time expect me to advance any and all moneys that may be required to secure the departure of some one supposed to be Sir Roger Tichborne. What evidence have I of this?"—That is true, but then Mr. Cubitt had been writing to the mother stating his belief in his identity—"You alone seem to be sure of the prize, but I must be equally convinced, and as all the responsibility rests upon my shoulders, can you reasonably expect that I could run such a risk without seeing my way clear? At present I have not received one shilling from Lady Tichborne, and until I have some tangible safeguard I cannot think of incurring further expense. The tone you have adopted throughout evidences a feeling of suspicion entirely uncalled for, and so long as you persist in this

course you must expect similar caution on my part.—I remain, yours truly, A. CUBITT.”

Now come two letters certainly deserving of the utmost attention. They are two letters written by Lady Tichborne after she had received from Mr. Cubitt the assurance of his conviction that her son was found, and a copy of the letter from Mr. Gibbes, in which he said that he had “spotted” him, and was sure he was the man, but prior to the receipt of the defendant’s letter of the 16th of January. The first is a letter marked by the utmost prudence and sound judgment, as that of one who though, as a mother, she felt every anxiety to find her long-lost son, and the strongest disposition to believe in the fact of his discovery, still thought it necessary to act with some caution, and to require proof before she rushed precipitately into a course of action founded on the assumption of identity. This is the letter to Mr. Cubitt, which I will read to you before I read the letter to her son, or supposed son; and you will doubtless be astonished at the contrast between them. “25th February, 1866. My dear Sir,—I did not answer your letter immediately as I wanted to arrange with my Banker Mr. Callaghan how to send you 40*l.* but he has no correspondent at Sydney, I must apply to an english banker. those 40*l.* are meant to pay your journey where my Son is and also to pay his own journey down to Sydney I cannot send more at present but I repeat once more that you cannot have any doubt as for what regards the payment of the promised reward which will be very handsome and in proportion with the very great happiness I shall have to see my beloved son again but that reward will be paid out of the estate”—Now observe—“at the same time you must not wonder if the money is not paid before hand, the more so as you do not give any details whatever about the person you believe to be my son, you do not name even the Town where he is and you do not say anything about the way he was saved from the shipwreck”—These are observations which it was quite natural to make, for the first thing upon which explanation would, of course, have been expected was, how it happened that everybody else, so far as was known, having perished when the ship went down, he alone had been saved from the general disaster—“I should like you to go immediately to see him, as it is absolutely necessary, and also it is equally necessary that you should accompany him to Paris, where I am, as I am afraid if he has formed any acquaintances they will prevent him from coming back again. I beg you once more not to spare any pain or trouble to succeed in this delicate affair as the reward will come in time and you will have nothing to regret, only the business must go on and not remain at a standstill, as I am afraid it does now; besides that I cannot pay beforehand, and before I see my own son again, and I think you

ought to hurry, as we can never answer for ourselves. the secret I mentioned in my other letters is now almost at an end at least so far as it regards Roger's safety as it was on account of some creditors; who now cannot do anything and therefore the secret is not so necessary"—We have had no solution of what that meant, and I can offer you none; none of the facts that have come to my knowledge enable me to suggest any solution of what that meant—"but I will explain all to you when you come with my beloved son. You have now in your power to do a very good affair for you and I trust you will go through it I will explain everything to my solicitor in London and he will forward to you 40*l.* to pay the journey expenses of both you and my son down to Sydney I cannot do more at present but later when the things are explained to me and when I know more about my son of course the money will not be wanting; but now you have not said anything at all about my son and I hardly know anything of the person you may suppose may be my son I will send you a letter for him and I shall expect an answer from him as I know his handwriting very well I shall know at once whether it is him In hopes to hear from you and also in hopes to have more details about my beloved son I remain sincerely yours h. f. tichborne. I will ask you to be so good as to read my last letter over again I believe I said all that could be said on that subject, it is necessary to know whether roger is married and whether he has children. I will thank you to send your letter under envelope or rather to Lady Tichborne to the care of Messrs. Callaghan and Co France 40 Rue Neuve des Mathurins Paris france. Allow me to recommend you once more to make haste and go on with that delicate business, as we never can answer for ourselves and let me have a letter from my son as soon as possible. Of course I suppose you will start to see him as soon as you receive this letter as if something was to happen to me what would become of the whole affair, that is to say it would perhaps throw difficulties in the way." A very sensible letter: You ask me for money; I send just enough to enable my son to come to Sydney; I cannot send more until I know more about him; you have not given me any details, not even those that relate to the way he was saved from the shipwreck, and I must have those before you can expect me to do anything more. Now it is difficult to believe that the lady who wrote that letter to Mr. Cubitt, so marked by good, sound, common sense, should, without any more information upon the subject of her son, on the very same day on which she wrote that letter, and probably with the very same pen, have written to the defendant acknowledging him as her son in the most unreserved terms:—"My Dearest and Beloved Roger,—I hope you will not refuse to come back to your mother who is still living. I have

never lost the hope of seeing you again in this world. I have had the very great misfortune to lose your poor dear father; and lately I have lost my beloved son Alfred, I am now alone in this world of sorrow, I hope therefore that you will take that in consideration and that you will come to join me as soon as possible. you need not be afraid about the money as you will have all the money necessary to pay your expenses, only *come* to see your *lonely* mother and remember the promise you made to your dear father before going away that if God called him to himself that you would then come back to be your mother's protector, and you promised him to come back certainly in that melancholy case, and now that your poor dear Brother is dead, I have nobody to look to but you. I trust my beloved roger that you will come back immediately and all the money required to pay your expenses will be soon found, only write to me and give me some detail about yourself"—She might well ask for that—"You know that if you let a banker know that you are *Sir roger tichborne* they will advance you the money necessary. If you do not like to do it, at least write to me all about yourself, and let me know the way to send you the money with safety, it will however be the longest way and take more time, than if you will consent to let your banker know who you are, it would certainly be the shortest way as letters are so long coming. this is my address where you can send your letter Lady tichborne to the care of Mr. Callaghan & Co. 40 rue neuve des mathurins Paris and he will forward it to me. and now Adieu my beloved son, my dearest roger, write to your poor mother who is so thoroughly unhappy at the losses I have had to bear, and whose only happiness and consolation will be to see you again." Now there you see is the most unqualified, unreserved acknowledgment of this supposed son, without her having received any details, or even, at that time, the letter containing the reference to the brown mark and the Brighton card case. I could have understood if, at once convinced by the communications she had received from Mr. Cubitt and Mr. Gibbes that this was her long-lost son, she had written that letter in the outpouring of a mother's yearning desire again to see her son, and under the conviction it was her son; but I own that I am astonished at the state of a person's mind who can write a business letter to an agent saying, "I am not going to send money before I have more details to satisfy me that he is my son," and at the same time write a letter to the supposed son in which she acknowledges him in such an unqualified way as is shown by that letter.

These letters were received by Mr. Cubitt by the 18th of April. On that date he wrote to Lady Tichborne, "I am in receipt of your letter dated February 25th, and regret that its contents are not more satisfactory. In the first place the 40*l.* mentioned as having been

forwarded to me through your solicitor did not reach me, so that I am still without any funds to reimburse me for expenses already incurred, which amount to more than this sum, and in the second place I am not in a position to advance the sum requisite for the outfit and passage of your son and myself to England. I cannot see any difficulty in the way of making provision for this expense; I have repeatedly stated, with a view to securing yourself against imposition, that I have no desire to touch the money (beyond what I have actually spent in the search) until the identity of your son is positive; and your banker in Paris can authorize the payment through the French consul here or through any merchant in Paris who has constituents in Sydney. I may mention one who was for some years in this city, Mons. Vial D'Aram, whose agents here are, I believe, Messrs. G. A. Lloyd & Co. For my own sake, as well as for yours, I am most anxious to bring the search to a conclusion, but until funds are provided, the matter must stand in abeyance, and I should state that to my mind no difficulty can exist, if Mr. Roger Tichborne be the heir to the estates, in obtaining sufficient money to restore him to his proper position. I took the precaution to inclose in a former communication a letter supposed to come from your son, and as you say you could recognise his handwriting, you will at least be able to satisfy yourself in this respect; I have at present no details as to how he was rescued from shipwreck, but have been informed that he was making a voyage from Rio Janeiro, which so far corresponds with your account. I have seen in a 'Home News' of 1862, amongst 'Wills and Bequests,' that of your late husband, in which it is mentioned *that your only son aged 22 was the heir*. This, I suppose, was in the presumption that Mr. Roger Tichborne was not alive at the time. I will take the earliest opportunity of delivering your letter, but this must either be done personally or through the agency of one in whom I can place the utmost reliance. You may depend upon my continued exertions in this affair, but the result in a great measure depends upon yourself."

The letter to the defendant was kept for some time by Mr. Cubitt, apparently owing to his having had the intention of going himself to Wagga-Wagga, which intention, however, he afterwards gave up, whereupon it was sent enclosed in the last letter from Mr. Cubitt to Mr. Gibbes, which I read. Then Mr. Gibbes takes it to the defendant, and he gives us an account of the scene that then took place, and at first gave us to understand that the defendant, on the receipt of this letter manifested his emotion by tears. On cross-examination Mr. Gibbes is asked: "When he read it"—that is, the letter—"did not his eyes fill with tears?—I will not say his eyes filled with tears, but he looked rather as if they were watering; I thought his eyes were watering, as far as I could see; as you may well imagine, you

do not stare at a man under those circumstances; you look away from him"—Well, that is very considerate, and I give Mr. Gibbes credit for it—" Q. You may see whether the eyes fill with tears, or whether they do not?—I will not call it 'filled with tears,' but his eyes appeared to have water in them. Dr. KENEALY: As far as you could see, did he seem to be genuinely sorry at the tidings the letter contained, as far as you could judge?—I believed so. The LORD CHIEF JUSTICE: You believed so at the time. Dr. KENEALY: Did he hand you the letter to read after he came to that?—Yes. Q. Did you read the letter aloud to him?—I did. The LORD CHIEF JUSTICE: You read him the letter?—He handed me the letter, and I began reading it out loud to him. Dr. KENEALY: He read the letter up to that; then, as you say, he appeared to be sorry; and then did he hand the letter to you to read it on?—I don't know whether it was to read it to him, but he showed me the letter; I read it out loud to him. The LORD CHIEF JUSTICE: Do you mean that was before he read it through himself?—Dr. KENEALY: My suggestion is, he did not read it through. The LORD CHIEF JUSTICE: I want to see that the witness understands the question before he answers. As I understand it, the way Dr. Kenealy puts it is this, that he read as far as the account of his brother's death, and then he was overcome, and he handed you the letter." Then there is a pause, and Dr. Kenealy asks, "Did he not go behind a tree?—He did; he went behind a tree, a sapling. The LORD CHIEF JUSTICE: What for?—I presume, to go and read the letter; that is what I thought he went for. Q. He took the letter away with him?—Yes. Q. When he came back he handed you the letter?—He handed me the letter. Dr. KENEALY: Let me see if this was not the way. Did he not read the letter until he came to the account of his brother's death?—I cannot say how far he read the letter down; I was under the impression he had read the letter, and then showed it to me." Then, seeing the drift of Dr. Kenealy's cross-examination, the witness says: "I must say, most distinctly, he did not appear to be so wonderfully overcome with emotion as to have stopped at the part as to his brother's death. Q. Did he not go behind the tree when he came to that part of the letter?—He was not sobbing; he did not burst into tears." In answer to Mr. Hawkins, who asks, "I understand you to say he very soon recovered himself?" the witness answers, "Very quickly indeed;" and he goes on: "I may add this, he had been washing himself in a tub of cold water before; it may have been washing his face, or scrubbing himself. I cannot say whether it was shedding tears, or the effect of scrubbing with a good towel. Q. Whether it was the soap, or the scrubbing, or the death of the father or Alfred, there was nothing to lead you to a certain conclusion?—No. Dr. KENEALY asks: Did he not go behind the tree, and then come and hand you

back the letter?—He did. Q. Did you not read the letter aloud, and did you not read ‘mother’ in place of ‘brother’?—I did. Dr. KENEALY: Hearing of his brother’s death, did you not then urge him that it was now his duty to defer no longer his going to England, or words to that effect; I do not pin you down to the exact expression, but did you not tell him there ought no longer to be any hesitation?” The witness does not answer that, and the thing cannot be other than a mere pretence—and I must denounce it as such; because the supposition that it was when the death of the brother became known by the letter of Lady Tichborne that Mr. Gibbes obtained his consent to write to his mother and to go to England, is wholly inconsistent with the truth, the fact being that intelligence of his brother’s death did not come until this letter was received by the defendant, which was not till May, whereas he had made up his mind to go to England in the preceding November, and had written, as far back as the 17th of January, to his mother, to say that he was about to come home, and had asked for 400*l.* for that purpose. Therefore to suggest that he consented to come forward because Gibbes told him it was his duty no longer to defer going to England in consequence of his brother’s death is, I am bound to say, mere pretence, because he had already made up his mind, and was only waiting for money for the purpose. Then the witness is asked, “I believe you telegraphed to Mr. Cubitt that you had at last got his consent?—I cannot speak from memory.”—He had told Mr. Cubitt that long before. “Does that strike you as being correct or incorrect?—It strikes me as being highly probable, but I cannot speak from memory. Up to the time of his going to Sydney, everything seemed to be in his favour.” Gentlemen, I never like pretence of any sort, and certainly that is one. I remember a similar thing when the defendant had a conversation with Captain Williamson. When he afterwards saw Captain Williamson and Colonel Lushington, he told Captain Williamson that he never should have come to England, being satisfied with his condition in the colony, if he had not received intelligence of his brother’s death—just the same pretence. It is really nothing more, because, as I have pointed out, he had fully resolved on leaving the colony as early as January, and only wanted the funds for the purpose; if the Dowager had sent them out he would have started without reference to his brother’s death at all, as he never knew of it until her letter came into his hands, which was not till May.

Gentlemen, the Dowager Lady Tichborne, in her correspondence with Mr. Cubitt, had up to the time at which we have arrived, namely, May, 1866, declined to send any money until she was more fully possessed of the details of her son’s, or her supposed son’s story, so as to be perfectly satisfied with his identity. The defendant then sought to raise money by borrowing it from the Wagga-Wagga branch of

the Sydney Australian Joint Stock Banking Company, which was presided over at Wagga-Wagga by a gentleman of the name of Cottee, and while he was negotiating with Mr. Cottee, through Mr. Gibbes, he writes his mother this letter: "My Dear and Beloved Mother. I received your note dated 25th Feb. and was very glad to hear you where quite well. I was very sorry to hear of poor father and Alfred death." There are one or two peculiarities connected with the defendant's composition to which I should at once call your attention. One of them is the omission of the final "s" in the possessive case, or as we call it in the Latin grammar, the genitive case, which is of constant occurrence. The other is the equally frequent omission of the auxiliary verb "to be"; sometimes the verb "to have" is treated in a like manner, and is dropped; the omission of the verb "to be," in the words "is," "am," "are," and so forth, is of very frequent occurrence. There is a third peculiarity which is characteristic of his writing, which is that, instead of a comma, where a comma is necessary, he commonly puts a full stop, which, as we have seen, is also a characteristic of Arthur Orton. Whether this was from ignorance of the difference between the two stops as a matter of punctuation, or because his comma assumes the form of the full stop may be uncertain; but the result is, that we find the full stop to all appearance substituted commonly for the comma:—"My Dear and Beloved Mother. I received your note dated 25th Feb. and was very glad to hear you where quite well. I was very sorry to hear of poor father and Alfred death. I Hardly know my Dear mother how you have borne the suspence of knowing my fate so long. You must not blame me mother for I believe fate had A great deal to do with it."—You remember the eloquent observations of the learned counsel on this passage. He read it as though he was reading something about fate and destiny in a chorus in a Greek play. I do not know if you find anything so sublime in it; I must say I do not.—"I believe fate had A great deal to do with it. I wrote to you on the 16th of Jan. for the first time since I been in Australia. you will wonder why I have not wrote before. But that I will tell you myself should God spare my life to reach England. I am trying to get away by the Panama rout which leaves Sydney on the 15th of June. But I do not know weather the Banker here will advance me the money or not. My attorney has promice to see him this morning. He is a gentleman and I have no doubt will advance me the money. speaking of Mr. Gibbes my attorney, he is the only friend I ever had since I been in Australia. Bnt I will be able to tell you more of his kindness when I see you. which I hope please God will not be long. I watched the last mail. when it arrived with great anxiety hoping to have had an answer from you. But I suppose you had not time to write by the mail. Hoping to see you about the 20th of August I

remain your beloved Son Roger Charles Tichborne." The use of the word "beloved" here—the participle of the passive verb—is remarkable, and seems to have been adopted owing to Lady Tichborne having addressed him as her "beloved" Roger. No such phrase was ever used by Roger Tichborne in the former letters to his mother.

Well, Mr. Gibbes was really anxious to get him this money to enable him to go to England, and Mr. Cottee was not unwilling to advance it, for Mr. Gibbes by this time had brought himself to believe that the party with whom he was dealing was the real Roger Tichborne; but it was possible that the defendant might be lost on his way home, or he might die, and then it would be inconvenient, in order to get back the money advanced to him, to have to send to England to some unknown person. They would not know to whom to apply for payment, whereas if he made a will and appointed executors, the executors could always be resorted to, and accordingly Mr. Gibbes insisted that he should make a will and appoint executors. Seeing that the money was not to be obtained otherwise, the defendant acquiesces in this proposal, and says, "Very well, I will make a will," and he comes to Mr. Gibbes' office for the purpose of Mr. Gibbes taking his instructions and drafting the will to be executed by him; and Mr. Gibbes, on his instructions, draws up the will, which the defendant afterwards executes. There is nothing more remarkable in the whole range of this extraordinary case than this will. It is in these terms:

"The last will and testament of Roger Charles Tichborne, of Tichborne, in the county of Hampshire, in England, but at present of Wagga-Wagga, in the colony of New South Wales, Baronet. I give, bequeath, and devise to my wife, Mary Ann Tichborne, known in New South Wales as Mary Ann Castro (I having married her in the name of Thomas Castro), her lawful dower out of my estates. I give, bequeath, and devise to my mother, Lady Hannah Frances Tichborne, in addition to her dower, the whole of my property in Cowes, in the Isle of Wight. I give, bequeath, and devise to my daughter, Mary Agnes Theresa (she being the issue of my marriage with my said wife), the whole of the Wymmering estate in Hampshire, in England, and also the property at and near Hermitage, in Dorsetshire, in England, inherited by me from my father the late Sir James Tichborne; and also my property at and near Ryde, in the Isle of Wight, subject always to the annuity hereinafter mentioned as to the said last-mentioned property, and also all other my property of every kind over which I have any disposing power. And I give and bequeath to Annie Bryant, the daughter of my wife before her marriage with me, the yearly sum or annuity of two hundred pounds, to be paid out of the rents and profits of my estate at or near Ryde, in the Isle of Wight, during the term of her natural life for her sole

and separate use independent of any husband she may marry, without power of anticipation. I appoint John Jarvis, Esquire, of Bridport, in Dorsetshire, in England, and Lady Hannah Frances Tichborne, at present of Paris, my mother, executor and executrix of this my will, and in case of either of them being deceased or unwilling to act, I appoint Sir John Bird, of Hertfordshire, executor in the stead of such executor or executrix so dying or unwilling to act. And I appoint William Gibbes, of Wagga-Wagga, solicitor, to be guardian of the persons and estates of my children. And in case of his death or inability to act, I appoint Henry Angel, Esquire, of Dorset, in England, to be guardian in his stead. Given under my hand at Wagga-Wagga, in the said colony (in duplicate) this first day of June, A.D. 1866." Signed "Roger Charles Tichborne." Then the will is duly attested.

Now the way in which, no doubt, that will was prepared was this :—Picture to yourselves Mr. Gibbes, the solicitor, sitting at his desk with a sheet of foolscap paper before him, pen and ink in hand, awaiting instructions, and he begins in the usual formal way. "This is the last will and testament, &c., &c., &c." Then he would naturally say, "Now what do you propose, in the first place, to do for your wife? I presume," Mr. Gibbes would say, "you will give her her dower." I am not sure whether the defendant, whether Roger Tichborne or not, knew what "dower" meant; I am quite sure Roger Tichborne when in England would not have known what it meant. Of course he would answer, "By all means, give her her dower." Then Mr. Gibbes writes: "I give, bequeath, and devise to my wife, Mary Ann Tichborne, known in New South Wales as Mary Ann Castro (I having married her in the name of Thomas Castro), her lawful dower out of my estates." Then, says Mr. Gibbes, "What do you propose to do for your mother?" "I suppose she has her dower out of your father's estates?"—"I suppose she has." But it so happens she had not. Lady Tichborne had no dower whatever. Dower is the estate for life which by the common law of England the wife has in her deceased husband's property, provided it was an estate of inheritance. This was an estate for life. Sir James Tichborne had no estate except under the settlement, and the estate he took under the settlement was an estate for life, and there was no dower. Mr. Gibbes was not aware that the property was in settlement. I suppose "dower" was transplanted to the colony with the common law of England; and probably settlements are not much in use in the colony, and the law of dower is of more frequent application than it has become with us. At the same time, I can quite understand that the defendant, not being conversant with law, might suppose that any provision made for Lady Tichborne under the settlement, or under any power which Sir James had of making a charge in her favour, might be considered

as dower. And it is true Sir James Tichborne did make, as he was empowered to make, two charges amounting to 2,000*l.* a year on the Doughty property for the benefit of Lady Tichborne for life. But then that was not known to Roger Tichborne. It was not done until after he left England, and he was not aware of anything of the kind, because in one of his last letters he says, "If no provision is made for my mother, some provision must be made, because I cannot live in the same place with her, and she must have a provision to enable her to live elsewhere." Consequently, that would appear to have been a mistake; she had no lawful dower, nor could Roger Tichborne have known that she had any provision which he could have mistaken for dower. However, he assumes that she has, at the suggestion, no doubt, of Mr. Gibbes. Then Mr. Gibbes would probably ask, "Will you give her anything in addition?—Yes, I give her the whole of my property in Cowes, in the Isle of Wight." He had not a brick, or a stone, or a clod of earth in Cowes, in the Isle of Wight. I will come to the question of his mother's name presently. Then the question would come, "What will you do for your daughter?" It is natural for a man with only one daughter—because he could always alter his will if he had other children afterwards—to give her his property, so he says: "I give, bequeath, and devise to my daughter, Mary Agnes Theresa (she being the issue of my marriage with my said wife), the whole of the Wymmering estate in Hampshire, in England"—He had no more estate of Wymmering than either you or I have. There is a place called Wymmering in Hampshire, and we were told we should have proof before us that at some very remote period, some centuries ago, the Tichborne family had property there; but that, like many other promises, was not kept, and we had no such evidence, and certainly as far back as the memory of living people goes, there never was any property belonging to the Tichbornes at Wymmering, and they certainly never had any that Roger Tichborne could have known anything about—"And also the property at and near Hermitage, in Dorsetshire, in England, inherited by me from my father, the late Sir James Tichborne, and also my property at or near Ryde." There was no property at and near Hermitage. There was no property inherited from the late Sir James Tichborne. There was no property at and near Ryde. Then an annuity is charged upon this imaginary property at Ryde. Gibbes would probably say, "Do you propose to do anything for your wife's daughter?—Yes, I will give her an annuity of 200*l.* a year, to be charged on my property at or near Ryde, in the Isle of Wight, during the time of her natural life, for her sole and separate use."

Such are the dispositions of property directed by this will. On cross-examination the defendant is asked, in the first place, whether

he had any property at Cowes, or at Ryde, in the Isle of Wight, and he answers "Nothing." "Had you any property at Hermitage?—No. Q. Had Roger Tichborne any Wymmering estate in Hampshire?—None." To all these questions whether he had any property at this place, or at that place, he answers in the negative with the most imperturbable coolness and *sang froid*. Then the question arises, "How came you to make a will, and dispose of property which existed nowhere except in the air and your own imagination?" and he explains that he did it for the purpose of making a fictitious will, because without making a will he could not get the money he wanted, and he did not choose to let Mr. Gibbes know what property he really possessed.

Here is the defendant's cross-examination with reference to this extraordinary will. "How came you to make the will which has been produced by Mr. Holmes?—I had a purpose in doing it. Q. What purpose had you in doing it?—I do not know that I have any right to inform you of that." The question is repeated, "What purpose had you in doing it?—I decline to answer the question. Q. Answer the question.—I will not." Then the Lord Chief Justice interposes and says: "I order you to answer the question.—Under your order, my Lord, I obey. Gibbes had a certain sum of money to give me, and he would not without I made a will. I did not wish to make a will, therefore I trumped up any kind of thing I possibly could do, making the whole contents of the will wrong in every shape and way. The SOLICITOR-GENERAL:—'Gibbes would not advance me a sum of money unless I made a will, and therefore I made a will?' The LORD CHIEF JUSTICE: No, 'trumped up.' (To the shorthand writer:) Will you read it? (It was read.) The SOLICITOR-GENERAL: Was that the Mr. Gibbes of whom you spoke to your supposed mother, in a letter read yesterday, as your best friend?—It was. Q. What was your object in trumping up the will and putting all the contents of it as wrong as you possibly could?—Because I did not choose to give him any information about myself or family. Q. Was the object of your will to give him security?—No, I cannot say exactly to give him security. Q. Did you obtain money from him on the making of the will?—I did. Q. How much?—300*l.* at that time. Q. And how much afterwards?—I think about 400*l.* more. Q. And 400*l.* more afterwards?—I think so; I am not certain. Q. Will you swear it was not much more?—Yes, I will. Q. How much was it altogether?—Less than 700*l.* Q. Was it your object to give him a security that would be worthless?—Certainly not: I did not give it to him as a security. Q. What was your object?—To satisfy a whim that he had. Q. What was his whim?—Well, he wished me to do it. Q. For what purpose?—I

cannot say exactly what purpose, I am sure. *Q.* What did he say?—In the event of my dying in my return to England or anything in that way. *The LORD CHIEF JUSTICE:* In the event of your dying on your return?—On my passage. *The SOLICITOR-GENERAL:* What was the use of the will?—I never intended it should be of any use. *Q.* Was it executed, then, in fraud of Mr. Gibbes?—I cannot say in fraud. *Q.* What was it?—It was certainly executed wrongly. *Q.* Did he not say to you that he would not lend you the money unless you executed the will?—No, I do not know that he said that. *Q.* I thought you told me about five minutes ago that he would not let you have the money unless you executed the will?—Just so; yes. *Q.* Did you obtain the money upon the execution of the will?—I obtained it afterwards. *Q.* In consequence?—I cannot say whether it was in consequence. *Q.* Did he make it a condition?—He might have done, I cannot say. *Q.* Did he?—I believe he did. *Q.* You know—did he?—It appears you know a great deal better than I do. *Q.* You know—did he? *MR. SERJT. BALLANTINE:* Answer the question.—But I am answering: I tell you I believe he did. *The SOLICITOR-GENERAL:* Did he?—I believe he did. *Q.* You know more than ‘believe’—did he?—I tell you I believe he did. *Q.* You know—did he or not? *The LORD CHIEF JUSTICE:* Answer the question.—I am answering it, my Lord; I tell him to the best of my belief he did. *The SOLICITOR-GENERAL:* Have you any doubt he did?—Well, yes, I have a very slight doubt. *Q.* A slight doubt?—Yes. *Q.* Founded on what?—In speaking just now, I think, my Lord, I made a mistake which might be taken advantage of afterwards: he asked me what money I received from Mr. Gibbes; I must tell you I received no money from Mr. Gibbes, although I said so at the time in speaking—that is to say, Mr. Gibbes got the money from Mr. Cottee for me, and in speaking of the money I almost look upon it as getting it from Mr. Gibbes; but the money actually came from Mr. Cottee. *The SOLICITOR-GENERAL:* Was Mr. Cottee a banker?—Mr. Cottee was a banker. *Q.* And was the will deposited at the bank?—Yes. *Q.* And was Mr. Gibbes present who got the money for you from Mr. Cottee?—He was. *Q.* And did he insist upon your executing the will before he would get the money?—He wished me to do it. *Q.* Did he insist upon it?—No, I believe there was—— *Q.* Did he refuse to get you money until you did?—No, I do not think he refused: that is why I said ‘to the best of my belief’ just now: I wanted to be exact in what I was saying. *Q.* Did he or did he not refuse to let you have the money until you had executed the will?—I do not think he did refuse. *Q.* Did he make a difficulty?—I believe he did. *Q.* Did you execute the will and get the money?—I did. *Q.* And did you not, five minutes ago, swear that he refused to let you have the

money until you executed the will?—Well, I hardly know what I did say, because you put it in so many ways, trying to confuse me. I am here with no object to tell a falsehood, I am here speaking the truth, and I am willing to do it, although you have far more power of language than I have. If you do by confusion make me tell a falsehood, I do not do so conscientiously.” “ ‘No,’ says the Solicitor-General, ‘none of us tell falsehoods conscientiously;’ many people might do so knowingly; consciences differ, as we have reason to know. Now attend to me: Was that will, according to your story, executed by you knowing it to be untrue from beginning to end?—It was.” Gentlemen, we know that at this time he had been in communication with Mr. Gibbes for nine or ten months, and we know that Mr. Gibbes was in communication with Lady Tichborne on the subject of his identity. He is reminded of these things, and then he is asked, “Do you mean to tell the Jury that on the 1st of June, 1866, your object was to conceal from Mr. Gibbes, your attorney, through whom you were communicating to your mother—your *soi-disant* mother—who you were, and all about yourself—all the details?—I mean to tell the Jury what is true, that it was so. Q. Is that what you tell them?—It is. The LORD CHIEF JUSTICE: You still say your object in making the will was to conceal from Mr. Gibbes all about yourself?—Yes. Q. That is what you still say, notwithstanding your attention is called to it?—Yes.” Then he is asked whether he intended that the devise to the wife should take effect, and he coolly answers, “No, I did not.” Then comes the question about his mother’s name.

Let us pause here for a moment. You see what his account of it is, and you have heard what Mr. Gibbes said, and between the two we can see how the matter stood. Mr. Cottee was unwilling to advance the money except there should be executors appointed on whom he could put his hands to get repayment if anything should happen. Mr. Gibbes is the go-between, or mediator between the bank and the defendant, and he says, “You must execute a will and appoint executors; unless you do, you cannot get the money.” The defendant says he did not refuse; at all events, it is quite clear Mr. Gibbes insisted on having a will, while, according to the defendant’s account, the will was on his part a dishonest—a fictitious will—a will which he did not intend to have any effect.

Now the will may have been a fictitious will under either of two sets of circumstances. If a man representing himself in general terms as possessed of estates and property, is called upon to make a will with a view to some ulterior purpose, but being in fact personating another, he does not know the details of the other person’s property, where his estates are situated, or what they consist of, he must draw upon his invention and substitute imaginary estates for

the real ones, of which he has no knowledge. That may have been the case with the defendant; or the case which he puts may be the true one, namely, that knowing, as Roger Tichborne, what the estates were to which he was entitled, he was not willing to communicate to Mr. Gibbes what those estates were, and therefore put in false and unreal ones instead of the true ones. In either of the cases, on the admission of the defendant, he intended to perpetrate a gross fraud, which was neither more nor less than a swindle. He intended to obtain the money, leading Mr. Gibbes to suppose he had made a genuine will, while his intention was to fabricate a fictitious will, which should have no operation or effect. In either case the fraud would be equal. But in the one case, although it would be as scandalously dishonest a thing as can be, and which might expose him to a charge of obtaining money under false pretences, yet it would not affect the question of his identity. The way it affects the present case is this. If you suppose he put in a false statement of the property of which he affected to dispose, because he did not know what were the estates Roger Tichborne possessed, that would be an ignorance on his part which is wholly incompatible with his being Roger Tichborne, because Roger Tichborne never could have supposed he had estates at Wymmering, or at Hermitage in Dorsetshire, or at Cowes, or Ryde, in the Isle of Wight, he not having a stick or stone at either of those places; still less could he suppose an estate in Dorsetshire was derived from his father when his father never had an estate there.

With regard to Hermitage a curious question arises. When did the notion of a Hermitage estate come into the defendant's mind? It was suggested by the Attorney-General, in his speech on the former trial, that the name of Hermitage had been derived from Wapping associations. There was a Hermitage Street, and a Hermitage Wharf, and Hermitage Bridge, in Wapping, in the immediate vicinity of old Orton's residence. But the name may have been derived from a different source. Shortly before Roger Tichborne left England a farm not very far from Tichborne, called the Hermitage Farm, was for sale, and it occurred to Mr. Gosford or to Mr. Hopkins, I am not sure which—but to one or other of them—that it would be a very good adjunct to the Tichborne estates, and Roger was written to, to know whether he would consent to its being purchased. There was a considerable sum forthcoming from the 100,000*l.* raised on the Doughty estates, available for the purchase of land in Hampshire, and there are two letters, one to Mr. Gosford and another to Mr. Hopkins, from Roger, saying he highly approved of the plan of purchasing the Hermitage Farm, and would execute any document necessary to enable them to effect the purchase. But the purchase was not effected in Roger's time, not until

after he left. Whether, if the defendant be Roger Tichborne, he had this in his mind, or whether he had Wapping associations in his mind, or whether Slate knew something about the Hermitage estate, I cannot tell you; but there it is. He mentions this Hermitage estate in a conversation with Mr. Gibbes, and he inserts the Hermitage property as one which he professes to dispose of in favour of his daughter, while there was no Hermitage property to dispose of.

Now we come to the extraordinary circumstance, which is one of the leading features in this most remarkable will, that he puts his mother's name in it as Hannah Frances. Mr. Gibbes tells us how that happened. When he came to the disposition in favour of the mother, Mr. Gibbes, I suppose, would say, "What will you do for your mother—of course she has her dower out of your father's estate?" "Yes; let her also have in addition my estate at Cowes, in the Isle of Wight." "Very good, but I have only her initials, she only signs 'H. F.' What are her Christian names?" The defendant hesitates, pauses for a moment, thinks, and then says, "Hannah Frances," and Mr. Gibbes puts down "Hannah Frances." It occurs twice in the will, once in the disposition of the property, and once when she is appointed executrix. We know Lady Tichborne's name was not Hannah Frances, but Henriette Félicité; and a question is naturally asked, the name having been put in the will as Hannah Frances, "Did you not know your mother's Christian name?—Yes, I knew my mother's Christian name. Q. It was not Hannah Frances?—No, it was not Hannah Frances. Q. How came you to put Hannah Frances? Why did you put your mother's name wrong?" is the pertinent question put to him by the Solicitor-General. The answer is, "On the same principle that I put everything else wrong. Q. On the same principle; what?—You will find the whole indenture wrong. Q. On the same principle; what?" Then the indomitable Serjeant Ballantine interrupts and says, "That he put everything else wrong." The SOLICITOR-GENERAL: "That you put everything else wrong?—Yes. Q. Did you think that putting Hannah Frances instead of Henriette Félicité would make the will a bad one?" He does not answer the question, but says, "I never intended it to be a good one. Q. Did you think it would make the will a bad one?—Yes, I did think so. Q. What?—I did think so, I have no doubt. Q. You did think so?—Yes. Q. You knew your mother's name, of course?—I did." Such is his explanation. Then it is suggested to him, "Well, but you put your father's name in right; you called him Sir James Tichborne, which is his name." The passage of the will is read: "'And also the property at and near Hermitage, in Dorsetshire, in England, inherited by me from my father, the late Sir James Tichborne.'

You call him right there; you do not call him Sir John or Sir Henry Tichborne; therefore it is not all trumped up; the name of the father is not incorrect; why did you not call him Sir John or Sir Julius?—There was no use doing that; Mr. Gibbes knew better. *Q.* Or Sir Jasper; they all begin with a ‘J.,’ just as ‘Hannah Frances’ begins with ‘H. F.,’ why did not you?—I told you just now because Mr. Gibbes knew better. *Q.* Did Mr. Gibbes know that the initials were H. F. then?—Yes, of course he did. *Q.* How did Mr. Gibbes know what the initials of Lady Tichborne’s name were?—Because he did. *Q.* How?—By her first letter to me”—There is no doubt that the letter was signed “H. F.”—“*Q.* That is how you came to put Hannah Frances?—It is not how I came to put Hannah Frances; I put Hannah Frances certainly. *Q.* That is how?—I do not know that is how. The LORD CHIEF JUSTICE: Did you say, ‘I do not know why I put Hannah Frances?’—No, I did so intentionally; the question put to me by the Solicitor-General was, ‘How did Mr. Gibbes know my mother’s initials were H. F.?’ The SOLICITOR-GENERAL: You say you got a letter from her signed H. F.?—Yes. The LORD CHIEF JUSTICE: The copy of the letter that comes home from Australia is signed ‘H. F. Tichborne.’ The SOLICITOR-GENERAL: Is that why you put Hannah Frances?—I believe it was. *Q.* Sarah or Elizabeth would have done as well?—No doubt you would find a hundred names. *Q.* But then Mr. Gibbes would have known?” He had just said that was the reason why he put his father’s name correctly, but he answers, “It is not usual—insinuating. The LORD CHIEF JUSTICE: I do not hear what you say—Well, I think the Solicitor-General’s conduct is very insolent, my lord. The SOLICITOR-GENERAL: I meant it to be.—Of course, I know that, therefore I must only take it for what it is worth.” The Solicitor-General was provoked and used a hasty expression, which is to be regretted; but that the defendant, who admitted he did not put the name of his father wrong because Mr. Gibbes would know better, should say that the question put by the Solicitor-General as to having put the name of his mother wrong because Mr. Gibbes did not know it, amounted to insolence, was certainly, I think, most unjustifiable and unprovoked, and ought to have met with a very much stronger rebuke than it seems to have received.

Now, then, the question presents itself, whether you are satisfied with the explanation that he put in the name of the mother as “Hannah Frances” because he wished to make the will in that respect as fictitious and delusive as it was in respect of the property which he pretended to dispose of. Is that explanation sufficient, or do you believe he put in the names Hannah Frances because he did not know better? If he put in the names Hannah Frances because

he did not know better, that must have been from one of two things: either he was not Roger Tichborne and had never known the names, or he was Roger Tichborne and had forgotten them. But is it possible that a son could grow up in constant intercourse with his mother to the age of twenty-four, be in the habit of frequently visiting her, and not know her Christian names? I can understand the possibility of his not knowing the second name; but the first is the one by which the father addressed her in conversation and in correspondence, the one he commonly addressed her by in ordinary domestic intercourse; and if that be so, the son must have heard the father call her "Henriette" hundreds of times; besides which, we remember that Roger wrote to her on the saint's day of Sainte Henriette, and he must, therefore, have been aware of his mother's name. Then could he have forgotten it? Let every man judge for himself. Suppose you are away in a foreign country for twelve years. You are separated, by that or any other circumstance that presents itself to your mind, from the mother with whose name you have been familiar from childhood; do you forget her name? That is a question which every man must answer for himself. Is the name of a mother—especially with whom you have been in early youth so long associated, and from whom you have not been separated until you grow up to man's estate—is the Christian name of a mother ever forgotten as long as memory remains? You must judge for yourselves. If you think that the explanation is not satisfactory, if you are satisfied that it was not that he purposely and designedly put in these fictitious names for the purpose of vitiating the will he was executing, but because he did not know what the Christian names of Lady Tichborne were—if it was not from want of memory, nor from want of ability to remember his mother's Christian names, but from the absence of ever having had any knowledge about them, that the defendant put them in in this way, what is the inference as to his being Roger Tichborne or not?

But now I come to what is really the most remarkable part of this will, and that is, the appointment of executors. You see the principal purpose of the will was the appointment of executors, and as soon as Mr. Gibbes, who was drafting this will, had got to the last article relating to the disposition of the property, he would naturally say, "Now about the executors, whom are you going to appoint as executors?" And he answers, "John Jarvis, Esquire, of Bridport, Dorsetshire, and my mother, Lady Hannah Frances Tichborne." Gentlemen, you may perhaps ask who was "John Jarvis, of Bridport, in Dorsetshire." As everything in the will was to be fictitious, was he, too, a fictitious person? No—he had a real existence, as we shall see further on. On cross-examination the defendant is asked, "Who was John Jarvis?" "I do not know, I am sure; I cannot say

whether there is or is not a John Jarvis. Q. You cannot say whether there is a John Jarvis, of Bridport, in Dorsetshire?—No. Q. You mean to swear you do not know whether there is a John Jarvis, Esq., of Bridport, in Dorsetshire, in England?—Of my own knowledge, no. Q. Was there?—I do not know. Q. What?—I cannot tell you.” Then the will goes on, and provides that, in a given contingency, Mr. Henry Angel shall be the guardian of his children. He appoints Mr. Gibbes, in the first place, to be the guardian of the persons and estates of his children, and in case of his death or inability to act, then Henry Angel, Esquire, of Dorsetshire, in England, in his stead. Here, again, who is Mr. Henry Angel?—“Mr. Henry Angel, of Dorsetshire.” The defendant is asked, “Who was Mr. Henry Angel, of Dorsetshire? Is he a real person? Who and what is he?” Again comes the answer, “I do not know.” However he, too, proves a real person. It seems further to have occurred to Mr. Gibbes that it would be desirable, in the event of John Jarvis, Esq., of Bridport, Dorsetshire, or Lady Hannah Frances Tichborne, being unable or unwilling to act, or dying, to have some other executor. Thereupon he would ask, “Who will you have for an executor in case either of the two executors you have appointed should fail to act?—Sir John Bird, of Hertfordshire.” Well, who is Sir John Bird of Hertfordshire? Is there such a person *in esse*? No, he turns out to be a purely imaginary person. The defendant is asked, “Who in the world is Sir John Bird, of Hertfordshire?—I do not know. Q. How came you to make him executor?—From the very reason there was no such person. Q. Is that the reason you chose John Jarvis?—No; I believe the name of John Jarvis was suggested to me. Q. The name of John Jarvis was suggested to you, and you believed he was a real person; on your oath, did you believe at the time you put his name in the will he was a real person?—Very probably. Q. Had you any doubt he was a real person?—No. Q. Then why select Sir John Bird because there was no such person?—Well, I do not know. Q. Did you think that John Jarvis lived at Bridport?—I do not know, I am sure. Q. Stop, will you swear you did not believe John Jarvis was a gentleman living at Bridport?—I was told he was. Q. You believed there was a John Jarvis living at Bridport, Dorsetshire?—Very probably. Q. Why, you know you did?—How do you know? Q. Did you?—I told you I believe I did.” Then he is asked as to Mr. Henry Angel. “Who was Mr. Henry Angel?—He was a person I have seen since. Q. Then he was a real person?—Yes, I suppose so. Q. You suppose so?—He was. Q. You have seen him?—I have seen him. Q. Then you know he was a real person?—Yes. Q. Did you know he was a real person then?”—That is, at the time he put him into the will—“No, I did not know; I believed

he was. *Q.* You believed Henry Angel to be a real person?—Yes. *Q.* Why did you put in Sir John Bird?—I cannot tell you why, I am sure. *Q.* Is there such a person?—I do not know; I do not think there is. *Q.* You do not think there is?—No. *Q.* Well, Sir John Bird, is he a baronet?—I do not know, I am sure. *Q.* You would know whether he is a baronet?—Well, I tell you I do not know. *Q.* Have you been in communication with Mr. Henry Angel since?—I have seen him since. *Q.* So you told me before, but my question to you now is, whether you had been in communication with him since?—Do you mean by letter? *Q.* Answer the question: have you been in communication with him?—I have seen him once, and have never seen him and never heard tell of him since. *Q.* When was it you saw him?—I saw him at Mr. Holmes's office." Then comes an inquiry which makes this part of the case of infinite importance, and which leads to a very startling disclosure. This is the question put to him: "Now, were not John Jarvis, Esq., of Bridport, Dorset, and Henry Angel, of Dorset, in England, close and intimate friends of Arthur Orton?—Ah, that I cannot tell. It was Orton suggested the names to me to put in; they were known to him, no doubt." Gentlemen, we know that these two persons were close and intimate friends of the Orton family. They were connected with the coasting trade, and used to come up in coasting vessels from the port of Bridport to London; they were intimate friends of old Orton in London, and used to go and stay frequently, when they were in London, at old Orton's house. The SOLICITOR-GENERAL asks, "What was it that Arthur Orton told you of Mr. Henry Angel that induced you to leave him guardian of your infant children?—Well, it was merely that I did not wish to execute the will, and he pressed me to do it because I had some money to give him. *Q.* That is not an answer to my question, which, from what I have seen, I think you are quite capable of understanding: what I ask you is, what Arthur Orton had told you of Henry Angel, of Dorset, in England, that induced you to leave him guardian of your infant children?—I do not know why I took him above any one else. *Q.* How came you to take him at all? I merely said I did not know what name to put in, and he said, 'Put in these names.' The SOLICITOR-GENERAL: 'Guardians of the persons and estates of my infant children'—what did Arthur Orton tell you of those two persons, whom you say you learnt were intimate friends of his father's; what did he tell you of those two persons to induce you to leave Henry Angel guardian of the persons and estates of your infant children?—I cannot remember what he told me, I am sure. *Q.* Surely you can remember what he told you about them?—I do not think he told me anything about them, any more than the names. *Q.* Any more than the names?—Yes. *Q.* But according to you they were put in haphazard?—Yes."

Now the first thing that strikes one upon that is this. Of course the names of John Jarvis, of Bridport, and Henry Angel, of Bridport, could not possibly have been known to Roger Tichborne, and if they were used by Roger Tichborne, and put into his will, they must have been suggested to him from without. On the other hand, to Arthur Orton, of course, these names would be familiar names, and they would naturally have occurred to Arthur Orton, while they would not have occurred to Roger Tichborne.

Now, the defendant, of course, would be alive to this difficulty, that supposing that these names could not have occurred to him as Roger Tichborne, they must have come from Arthur Orton, and therefore he says that Arthur Orton, expecting to receive a share of the money which was to be obtained by the execution of this will, had pressed him to make the will, as the means of obtaining the money; whereupon he, being reluctant to do so, had objected that he should not know whom to appoint or name as executors. "Oh!" says Arthur Orton, "I will give you a couple of names; there is John Jarvis, of Bridport, an old friend of my father, and Henry Angel, of Bridport; I remember them both: they used to come to our house; take their names." But the question immediately suggests itself, if Roger Tichborne had really been making the will, and had been called upon to name executors, why should he be in this difficulty about finding names. His old early associations in this country, his own relations and friends, would have furnished him with an ample supply of names to satisfy the pressure of Mr. Gibbes. Why should he have recourse to Arthur Orton? And then comes the evidence of Mr. Gibbes, which is, that the will was made at one and the same time, and that certainly there was no opportunity for communication with anybody outside the office to make it possible that these names could have been suggested to the defendant when making the will. But I think that must not be pressed too far, because the defendant has never, so far as I understand his position, asserted that while the will was being made he found himself in a difficulty as to the names, and went outside and saw Arthur Orton, who suggested them: he may have got the names from Arthur Orton before he went in to give the instructions. The difficulty is to find a solution which would satisfy our minds, as rational, thinking men, of the fact of Roger Tichborne being at a difficulty in finding names to put in, and having recourse to Arthur Orton for that purpose. Gosford would have afforded him a name in a moment. Slaughter would have given him another. They were the executors of his old will. There were the Seymours—there were a variety of persons—many names would readily have occurred to him. Therefore you must judge whether this statement of the defendant is one which you can accept as the explanation which he gives for putting, in the will thus executed by him, two names which

would have been known to Orton and which would not have been known to Roger Tichborne, unless suggested from without. Such, however, is the explanation of the defendant, and it is a simple one; and unless the surrounding circumstances deprive it of credibility, it is not one which it is an insult to our understanding on his part to offer, or which it would imply a want of intelligence on our part to accept, unless we see reason for rejecting it. There it is, a simple, apparently straightforward explanation. "I did not want to make the will. I could not get a certain sum of money which I required, and was desirous of obtaining, without making one. If the condition of obtaining the money had been the executing the will, and I had been left to myself, I should not have executed it; but I had a friend, who was a strong-minded man—as my counsel says—and this man pressed me to make the will, as I had promised to give him 50*l.* if I got the money from the bank: then I said, I do not know whom to put in as executors. He supplied me with two names, and I put them in, although those names were not known to me before." This is a simple explanation, which you may adopt or reject. But the learned counsel, whose business I should have thought it was to support the statement and explanation of his client as far as he could do so by fair argument and reasoning, puts it on one side with the most sublime scorn. He says: that will not do: I cannot say in the face of the evidence that there was an Arthur Orton at that time at the place where the will was being executed; he was somewhere or other in the bush, but I cannot say he was at Wagga-Wagga; but I can offer another and a more satisfactory explanation. Now, I can picture the learned counsel sitting down with that poetic fervour for which as a poet he is distinguished, and thinking of something of a highly poetical kind, and then out comes this: "I can quite fancy," he says, "when he and Arthur Orton were in the woods, miles and miles away from any human being, sitting up the greater part of the night, under the magnificent and cloudless skies of Australia, by the camp fireside, talking over former times, Arthur Orton, a man of stronger mind, impressing vividly on the mind of the weaker man the account of persons who belonged to him in the past. I can imagine this man's mind becoming so imbued with those things that it would be full of them, so that persons whose names he had thus become familiar with would occur to him as persons whom he had himself known. Am I departing," said the learned counsel—Gentlemen, I am too shortsighted to see whether he ventured to look you in the face when he said it—"am I departing from the strict path of reason, or logic, or argument, or common sense, if I put that to you as a thing that may have occurred, and which may account for a great many of the absurd things he did?" If he had put that to me—I do not know how you answered it in your minds—but if he had put that question

to me, I should have said I think you are departing not only from the strict path of sound reasoning and logic and argument, but also from the path of common sense, in putting forward anything so hopelessly irrational as that.

Gentlemen, we have all heard of the transmigration of souls, the wonderful doctrine in which it is supposed that a soul, having previously inhabited the body of some one now leaving the world, takes advantage of the body of some one coming into it to pop into the body and possess it. But I have never heard of the transmigration of mind from one living person to another. According to this theory, the effect of the discourses which had taken place between the two persons under the canopy of heaven and the magnificent and cloudless skies of Australia was that the recollections of Arthur Orton had passed into the mind of Roger Tichborne, and superseding his own, and turning them out altogether, had taken bodily possession of his memory. The only thing I know of like it is what they tell us of the hermit crab, a creature which is destined by nature to live in a shell, but which nature has not provided with the necessary covering, and so the crab walks about until he sees a shell occupied by some other shellfish which he thinks will be likely to suit him. He then puts in his claws, which are very long and very sharp, and quietly pulls out the innocent and unoffending tenant of the shell he desires to inhabit; he eats him, and then gets into the shell. That is something like the process which the learned counsel supposes the mind of Arthur Orton to have carried on with the mind of Roger Tichborne, and he positively asks you to believe that Roger Tichborne would not have the recollection of things appertaining to himself, but that the recollection of things of his own concernment would be superseded by the things Arthur Orton had talked to him about in the bush. He had forgotten Mr. Gosford and the people he had known in England, who might have been made the executors of his will and the guardians of his children, and he substitutes two persons who had been previously unknown to him and only known to Arthur Orton. Can you adopt that theory? Is it one that, as rational men, you can possibly entertain? If not, we are thrown back upon the question—the question to which the learned counsel should have addressed himself—Do you believe that the defendant put those names into the will because they were suggested to him by Arthur Orton under the circumstances to which he has spoken? If you do not, then stands prominently out in bold relief the startling fact that in the will alleged to have been made by Roger Tichborne you find the names of two persons as executors and guardians, which, while they were names which would readily have suggested themselves to Arthur Orton, never could have been known to Roger Tichborne at all. So much for

that remarkable will, which is certainly one of the most striking features in the whole of this case.

The will having been executed, it appears that Mr. Cottee still hesitated about advancing the money, and preferred that the Claimant should wait till he got to Sydney, where there was the head establishment and a general manager, who was a person of higher authority than Mr. Cottee, the manager of the branch bank; and, accordingly, the defendant was referred to the head of the bank. The will was executed on the 1st of June, and he leaves almost immediately afterwards for Sydney. On the 18th of June he writes to Mr. Gibbes from Sydney: "Dear Sir,—I arrived here last Saturday morning having meet with an accident on the road. I thought to drive to picton—I suppose that is the name of some place—"but my tire brake a fue miles from Birrimo"—you observe he spells "few" like Arthur Orton, f-u-e—"And I had to sell Horse and Cart for £7 10 0. I then took the coach and she was stop at the Bargo River 24 hours. So I did not arrive in Sidney until Saturday morning. I have seen Mr. Ford. he going to see Mr. Cubitt"—Here we have the omission of the auxiliary verb, which occurs so frequently in the writing of the defendant—"And I have to see him again to Morrow at 3 o'clock. I called at Mr. Lumsdaine. But I did not see him. I see Mrs. Lumsdaine who very kindly ask me in. I have to go up again in. The evening."—There is a full stop after the word "in," and "The evening" is written with a capital "T."—"I have just sent a telegram down to you for £5 0s. 0d. pound has I am cleane out be sure to send a telegram as soon has you receive the English Mail. I will write every day and let you know how things are. My respects to Mrs. Gibbes and the chilldren." That is another word in which there is a characteristic spelling, he always spells "children" with two "P's." I may here observe once for all that the mistakes of grammar and the misspelling which occur in these letters are so frequent that it becomes next to impossible to point out all the individual instances, as I endeavoured to do in going through the letters of the undoubted Roger Tichborne.

We have next one of Mr. Cubitt's flourishing letters to the Dowager Lady Tichborne, the defendant having at this time arrived at Sydney. On the 22nd of June Mr. Cubitt writes: "My Dear Madam,—After a long, tedious and expensive search"—he had not done anything but put an advertisement into the newspapers—"I have at length succeeded in discovering your Son, who, as you will learn from him, is now in Sydney, and with whom I have now had several interviews. From Mr. Tichborne himself you will learn all particulars relating to myself, and my simple reason for now addressing you is, that I may do my part towards clearing myself of serious imputations against my character, through the perfidy and deceit of

one of my Agents who with a view to acquiring gain for himself has not hesitated to villify me in a manner disgusting to the feelings of any honorable man"—What Mr. Gibbes had said about him I do not know—"Your Son has been innocently dragged into a belief of these vile charges, but with a candour and honesty which reflect the greatest credit has promised without delay to remedy the injury already inflicted. I am sure he will convince you how I have been maligned, so I have nothing further to say but solemnly to assure you that throughout I have been actuated by an earnest desire to serve you in this matter as a gentleman and a man of honour."

The defendant being now settled at Sydney, he writes to his mother on the 23rd of June. This is from Butt's Metropolitan Hotel, Pitts Street, Sydney: "My dear mother I have not received your letters yet. Has they will have to go to Wagga Wagga first. I intended to go by the Mail Steamer on the 14th July. But they have altered the date of departure to the first of Aug very annoying. I have found Mr. Cubitt A very different person to what I represented him to you in my last letter I have every reason to be please with him, and the way in which he has enquired for me." One cannot help being struck with that passage. This is the man who was "hugely disgusted" when he was discovered, and, like the hermit crab's shellfish I mentioned just now, dragged as it were out of his retirement. He says, "I have every reason to be please with him, and the way in which he has enquired for me I have my arrangement with him for the expence and trouble he been to I likewise enclose a note from him. Hoping my beloved mother soon to be with you I remain. Your affectionate Son R. C. Tichborne."

Next comes a letter from Lady Tichborne of the 10th of May, which contained important information, and it is accompanied by one of the same date to Mr. Gibbes, which must have caused that gentleman an uneasy moment or two. "Mr. Cubitt, I have received your letter dated the 15th february and letters are so long coming that I regret your not writing everything at once as it makes that business last so much longer. the passage money is so high that I think if I can do without your accompanying roger it will be better as it is I believe 200*l.* and 200*l.* for your returning home that would make 400*l.* for your passage alone. Of course 200*l.* for my dear son's coming home would make 600*l.* for the passage alone. It is more than I can afford to pay but I think roger will come alone if he once makes his mind to it, however you might write to me in your next letter what the passage money would be. I think you might have mentioned it by the last mail and also more particulars about my son's intentions, however his identity is the first thing and the one that will decide of everything. I cannot however say he is my son until I have seen him, therefore it is most necessary that he should

come over, as once acknowledged as my son everything will go straight"—That appears to have been her idea, that it required nothing more than her recognition of his identity to carry everything at once—"I think you ought to make an arrangement with his creditors to allow him to come over to Paris to be identified, as once when he is recognised the debts will of course be paid out of the estates. I think you ought to be accustomed to those sort of transactions and this one is not more difficult than any other." Then, having been struck by his writing about his great expenses, she says, "I do not think your expenses can be very great, beyond advertisements there was not much done and I will of course pay what is due to you. I do not believe that Mr. Gibbes intends to deprive you of anything but as he is a lawyer it may be better to have his advice." She then comes to speak of her son, and for the first time gives some particulars by which the people out there might be enabled to identify him. "Roger Charles is born in Paris"—that is a French phrase—"in the year 1829 or '30. he used to speak french and being very delicate in health he was kept at home till he was 15 or 16 years old, he then went to the Jesuits at the College they have in Lancashire at Stonyhurst. he remained there three years and a half, afterwards he went into the Carabineers and was there for a year and a half. he quitted the Army because his poor father and I wished it"—She is altogether wrong there—"He was still very delicate and we were afraid his Regiment (the Dragoon Guards) would be sent to India"—The poor lady is very inaccurate in her statements; Roger left the regiment because they were not sent out to India—"It is then that he had the unlucky idea to travel and he sailed at Portsmouth on the 13th March 1853"—he never was at Portsmouth at all—"to go to Valparaiso, he remained in those countries about a year and then sailed on the 20th of April 1854 at rio janeiro to go to New York. ever since that we have not heard anything of him—they say the Bella, the ship that he sailed with was wrecked but nobody can say it for certainty. we heard part of the crew had gone to Melbourne and had dispersed about the Country and it is that that induced me to write to you on the 19th May last year and this business has gone very slowly I am sorry to say. When Roger went into the Army he was 19 years of age"—he was older, he was very nearly 21—"It was in the dragoon guards the carabineers. When he quitted home he was 21 years of age in 1853"—In point of fact he was 24—"I give you all these details that you may better know him, he is a roman catholic and used to be a very good one—I do not know what his religious feelings may be at present, his father Sir James was a Roman Catholic and I am one myself, all the family is. I suppose you have received the letter I wrote to you in february I sent you one for my dear roger and I hope you will have answered it by the

next Mail, here in Paris letters for Sydney only go once a month. There is a man in Sydney who lived formerly with Sir Edward Doughty as a valet, Sir Edward doughty Roger's uncle left him 50*l*. a year and he has been living in Sydney ever since, he is a negro quite black he is coming from Jamaica his name is Bogle—I do not know his address at Sydney. Roger knows him very well I do not know whether it would be of some use to see him as he is sure to write to England immediately about roger being found and I don't think it ought to be known before Roger is there on the spot to answer for himself, however that man could identify him as well as anybody. I leave it to you to do as you think best, he may be inclined for the Collaterals who have an interest in not acknowledging him. I have only one thing to add which is that I am very anxious that that business should go on as quick as possible. of course if I find my beloved son again it will be a consolation to me, but he must be identified. I have written to Mr. Gibbes to tell him so, I am afraid my letter will never reach him. Roger never knew his grandfather—Which clearly shows that some communication had been made with reference to his grandfather—"Sir James's Father was dead even before Sir James married. Since I wrote to you I have had the very cruel and awful misfortune to lose my second son Sir Alfred Tichborne, of course it makes me still more anxious if possible to find my dearest roger again but notwithstanding that Roger must be identified and we must be sure of his being my son which I cannot say unless I have seen him. I remain Sir Truly yours h. f. tichborne. You had better continue to send your letters to my Banker, Mr. Callaghan & Co 40 Rue Neuve des Mathurins Chausseé d'antin, Paris. Sir Edward Doughty was Sir James' brother, he took the name of Doughty because he inherited a large fortune which will belong to Roger Charles now if he will only come over to England to be acknowledged I think he ought to come to meet me first either in Paris or London. The only way to go on with that business is that Roger should come over immediately and when I have seen him the things will soon be straight Roger says in his letter that he wishes to have 200*l*. for the passage money and 200*l*. for a few little debts he has in Sydney, but of course the first thing is to identify him." As I said just now, it is plain from this that the defendant had sent some message or made some allusion to his grandfather.

She writes in the same way to Mr. Gibbes. "I wish to acknowledge your letter and also to thank you for it. I must begin by saying that to see my dear son again would be the greatest happiness I could have in this world and having had the awful and most melancholy misfortune to lose my younger son Alfred Joseph I should of course appreciate that Happiness still more if possible, but notwithstanding all that, Rogers identity must be beyond any doubt

and he can not be identified till he comes where I am either in England or in Paris. I can not send 400*l.* unless I am perfectly sure of his identity and you must understand"—she gives him this information to enable him to judge whether the party he had written about was really her son or not—"you must understand that Roger has been three years at the jesuits college at Stonyhurst, and when he was 19 years of age in 1852 he went into the dragoon guards"—so far from going into it in 1852 he left it in that year—"where he remained nearly two years"—he was there three years and a half—"he passed his examinations well before he got into that regiment. he never knew his grandfather, Sir James's father was dead even before I married his father. Roger was born in paris and spoke french I believe better than english. I should be glad to know whether he is married or not. I enter into all these details that you may be able to know him but I repeat I can not send any money till he has been identified and that can not be done I am afraid till he comes to England, perhaps his creditors would allow him to come over and would consent to wait to be paid till he has been identified in England, and if he will not tell them who he is he must under one pretence or other contrive to come to England—before I conclude this letter I must recommend you once more to try to find out the truth so that it should be beyond doubt that that young man is my dear son roger Charles tichborne"—All that is extremely sensible: she is giving particulars by which her son can be identified, and says, I cannot send 400*l.* until I have something like facts to go upon—"I must however beg of you to bestow the greatest attention on that business and that poor young man who I repeat it once more cannot be identified till I see him." Again she repeats—"perhaps his creditors could allow him to go over to London to meet me and would consent to wait to be paid till he is identified. if he is really roger charles tichborne my son of course there will not be any difficulties."

She is evidently not altogether satisfied: from that letter she seems to have had some misgiving. She began to feel some little alarm; she had had no satisfactory information conclusively establishing his identity. That letter being of the 10th of May, she writes again on the 18th, lest the first letter should not have come to the hands of Mr. Gibbes, and she repeats substantially the same thing. I do not think I should do any good by reading the second letter, because in effect (although it may vary a little in expression) it is the same thing she had written in the letter of the 10th May.

Now I need not say all this must have been very startling indeed to Mr. Gibbes and Mr. Cottee, who had sent the defendant on to Sydney, the will they asked for having been executed, with the view that the manager at Sydney should advance the 400*l.* or whatever the sum was the defendant desired to obtain. Here was informa-

tion which they had not before heard of, and which must have made them shake their heads and entertain, certainly for a time, very considerable doubts if this could be the real Roger Tichborne, seeing that the representations made by Lady Tichborne in these letters were altogether inconsistent with the statements the defendant had made to Mr. Gibbes while he was at Wagga-Wagga.

It must have startled them to learn from the letter of the 10th of May, which would arrive in the course of post at the end of June or beginning of July—that, instead of Roger Tichborne having been educated by a Christian brother in the way he described, by snatches when opportunity occurred, he had been three years at the Jesuit College at Stonyhurst, was born at Paris, and had spoken French better than English. That must have startled Mr. Gibbes. “Spoke French better than English! Why, I tried him in French and he could not speak a word of it.” “Three years at a jesuit college! He told me the only education he had had was from a Christian brother, and he accounted for his want of education by telling me his education had been impossible owing to his having had St. Vitus’s dance when a boy.” “Three years in the army as an officer! He never said a word to me about having been in the army. What can be the meaning of all this?” Forthwith one of them, either Gibbes or Cottee, telegraphs, and then the defendant telegraphs back. We have not the telegrams sent to him, but we have his in answer, from which we may gather the inquiries put to him. “Sydney 25 June 1866. From Roger Tichborne to Mr. Cottee of Wagga-Wagga. Have received telegram from Gibbes. My brother was at Winchester College Yorkshire. Hallin of Bridport Dorsetshire was father’s agent.” Winchester College, Yorkshire, was of course a fiction; there is no Winchester College, Yorkshire. It occurred to me—I was some time before I hit on the solution—Why on earth should they have telegraphed to him to ask about the brother’s place of education? If they asked about his own I could have understood it, but why ask about his brother? I meant to ask Mr. Gosford about it, but I forgot to do it, why they inquired what was the place of education of this brother? It was only quite recently that on further consideration the solution occurred to me: I imagine that when they were startled by Lady Tichborne’s letter, and the apparent inconsistency between her statements and those of the defendant, knowing, from frequenting the institute at Wagga-Wagga, that the ‘Illustrated London News’ was taken in there, and that it contained the obituary of deceased persons of any position in the world—they looked for what particulars they could find about the family, and there they would find it stated that Alfred Tichborne, whose death was recorded in one of those papers, was educated at Prior Park, one of the Roman Catholic educational establishments.

That is my conjecture. I suppose that, by way of testing his knowledge of the family, they telegraphed to know, "Where was your brother educated?" Whatever may have been the motive, no doubt they did telegraph that. The answer is, "Winchester College, Yorkshire." That would not be satisfactory, of course. And then, learning from the Dowager Lady Tichborne's letter that he had been in the army, they telegraphed to him again as to what regiment he was in. The telegraphic answer comes back, "In the 66th." They also asked him by telegram, "Where were you educated?" "High School, Southampton." "Name of the agent in Tichborne Park when you left?" "Name of agent for Tichborne Park when I left, I do not know." The result was so unsatisfactory that to prevent the bank from advancing the money till further inquiry had been made Mr. Gibbes starts at once for Sydney.

Let us pause for a moment on these things. Can it be said that the defendant had any motive in answering wrong. Could there have been any object in deceiving Mr. Gibbes? I cannot understand that there can have been. I can see none. Of course, by giving answers inconsistent with the truth, he could only be endangering his claim, whether it was a real one or a fictitious one; therefore, if he knew the truth, one would expect him to answer according to the truth, and when asked in what regiment he had been, to answer "the 6th Dragoon Guards." I should have thought at first that it was a mistake of the telegraph, and that what he really meant was the 6th. But we shall find presently that it certainly was not a mistake in the transmission, but a deliberate statement. "High School, Southampton." We know Roger Tichborne never was there. "Name of agent for Tichborne Park when Roger Tichborne left?—I do not know." Could Roger have returned that answer? The agent at Tichborne Park was his confidential friend and correspondent for so many years, to whom he had written that long series of letters having reference to everything that a man could speak of confidentially to his most intimate friend. Is it possible that Roger could have forgotten who was the agent for Tichborne Park? Could the memory and name of Vincent Gosford have been obliterated from his remembrance? The effect of these telegraphic answers was certainly not such as to reassure the disturbed minds of Mr. Gibbes and Mr. Cottee, and they thought the best thing to be done was for Mr. Gibbes to start and go to Sydney, where the defendant then was.

Accordingly Mr. Gibbes does so. He sees the manager of the bank, and then it was arranged that the matter should be referred to the solicitor of the bank, a gentleman of the name of Macarthy, who, Mr. Gibbes assures us, was a gentleman of intelligence and respectability, for which, indeed, his position at the bank is a sufficient voucher. They required the defendant to come to Mr. Macarthy's

office, and an appointment was made accordingly. A conversation takes place, which Mr. Gibbes detailed to us, and the substance of which was embodied in notes made and signed by Mr. Macarthy.

Mr. Gibbes gives us this account of what passed. "Mr. Macarthy asked the defendant at what college he had been educated, and mentioned that his mother had said he had been at Stonyhurst"—this was, of course, inconsistent with what he had told Mr. Gibbes about his education; therefore the mother's statement involved him in a direct contradiction.—"He said he had not been at Stonyhurst. He asked him the number of his regiment. He said it was the 66th; they were called the Blues. Mr. Macarthy detected that, and made a remark about it as he went down-stairs. He also asked him the name of the colonel of the regiment. He said he thought it was Wilson." We know perfectly well there was no colonel of the name of Wilson in the regiment during Roger Tieborne's time in it. He may, however, have confounded it with Jackson. "He asked him what examination he had passed. He said he passed no examination on entering the army; he said he had only been a private. Mr. Macarthy then asked if he would describe the drill, and how they fall-in four deep. The LORD CHIEF JUSTICE: What led to the cavalry drill? We have not had any up to this time?—He said he had been in a cavalry regiment, my lord. Mr. Macarthy asked him as to cavalry evolutions. Q. What particular questions?—One particular question as to falling-in four deep—it was falling-in something deep; I believe it to have been four deep. He said he had had no drill to speak of, as he had been only thirteen days in the regiment. He gave that as the reason why he could not describe the drill. Mr. HAWKINS: Have you told us all that you recollect?—He also mentioned something about having gone away from home that he might get out of his father's power, or something of that sort—that his father could not get him out of the regiment. There had been some money transaction at Brighton. The LORD CHIEF JUSTICE: He gave that as the reason for enlisting?—He gave that as the reason for enlisting; there had been some money affair at Brighton—the card case at Brighton he afterwards explained to me. We then went away. Q. He did not go into the card case at Brighton then?—I do not know that he described it as the card case at Brighton then, but some money arrangement. He gave all the answers; I saw them written myself, and those answers are the answers he gave. They are accurately true, though they may not be literally verbatim."

Now the result, as I have said, was embodied in a memorandum signed by Mr. Macarthy and which we have. The answers are succinctly given in it. "What college?—Mother's statement as to college denied. What regiment?—66th Regiment Light Dragoons"

—agreeing, you see, with the telegram—“Blues; sword and carbine as arms. What capacity?—Private. Name of agent?—Forgotten. Where born?—Dorsetshire. Mother went to France immediately after confinement—to Cherbourg. Left France for England when about eleven or twelve years old. The above notes taken by me, Hy. Macarthy.” Mr. Gibbes adds that a further conversation took place at this interview respecting his having been at school at Southampton. “Do you recollect anything further that took place at that interview?—No, it does not suggest itself to me. Q. I only suggest a name to you: was the name of Southampton mentioned at all?—He said he went to school at Southampton. The LORD CHIEF JUSTICE: Was it at that interview?—He said that there, and he said afterwards he blamed himself that he had not told me at Wagga-Wagga. Mr. HAWKINS: Did he say only that he had gone to school at Southampton, or did he give you particulars of it—with whom he was at school, or whereabouts he was at school at Southampton?—He did give me the school, but I cannot remember the name of the school. Q. Or the street or place in Southampton?—No, I do not know the name of a single street in Southampton.”

The interview being over the defendant and Mr. Gibbes go back to the hotel. Mr. Gibbes represents the defendant as in a state of great excitement. Mr. Hawkins asks: “What took place at the Metropolitan Hotel?—He said most emphatically, ‘I never was an officer.’ He struck the table and said, ‘By God, I have a damned good mind not to go near her at all when I get home’—Most emphatically he said it.” No doubt, if he said these words they are emphatic words—“He said one thing; that he ran away and joined the Dragoons, and was brought back by his father and kept strictly at home till November, when he sailed from England”—Roger Tichborne did not sail from England in November, he did not leave till March; it was Arthur Orton who left England in November—“Mr. JUSTICE LUSH: Ran away and joined the Dragoons, and was taken back by his father, and what?—Kept strictly at home until he left in November. The LORD CHIEF JUSTICE: You say he stated that to you?—He stated that to me. Q. When did he state that to you?—I was only a little time in Sydney, and we had a good many interviews, so I could not say which particular day. Q. But I mean, did he tell you that in Sydney, or before in Wagga-Wagga?—In Sydney. Mr. JUSTICE MELLOR: Shortly before you wrote the letter?—Just shortly before I wrote the letter.” That is a letter to Lady Tichborne, in which he told her all the particulars. Then the jury interpose. “You say that he said that his father took him away from the regiment after thirteen days?—Yes. Q. And kept him in strict confinement until November?—Yes. The LORD CHIEF JUSTICE: Kept him strictly at home?—At home. The

JURY: Did he say where that was?—I cannot say that. **Q.** Did he say what town he was taken from—where he was quartered at that time?—No.” That this was connected by the defendant with what has been called the Brighton card case appears clear from another passage in Mr. Gibbes’s evidence. He is asked: “You were going to explain, before he left Sydney, or at Sydney, there was something said about the card case. Was any explanation given you at Sydney of what was meant by the expression, ‘card case’?—Yes. **Q.** Will you tell the jury what that was?—That he lost money at cards; had been swindled, I understood. **The LORD CHIEF JUSTICE:** What led up to this? An isolated observation of this kind is hardly satisfactory. What led to any talk about cards at all?—That was first of all mentioned in the letter to his mother as one of the things, the card case at Brighton. **Q.** What question led to his explaining about that?—Some question I put to him, because I was under the idea that it was some youthful freak—that he had stolen some lady’s card case—some bit of fun. **Q.** What question did you put?—I cannot say what question; but, in answer to whatever I did say about the card case, he told me that it had been connected with a money transaction, that he had been swindled at Brighton. **Q.** Anything else?—That thereupon he had either drawn— **Q.** What?—He had done something which had occasioned his going away—enlisting, to avoid his father.”

Now, the evidence of Mr. Gibbes and these documents is confirmed by that of Mr. Frederick Cubitt, who had formerly lived at Norwich, but was at this period in the office of his brother in the Commission Agency and Missing Friends’ Office at Sydney. He says he remembers the time when the defendant sought to obtain a loan from the bank, and he remembers the defendant coming away from the bank on one particular occasion, when he had been before Mr. Macarthy, and that he came back in an excited state, and said: “They would do nothing for him because he could not give a proper description of his military life or regiment. **Q.** What do you mean by excited state?—Annoyed or excited about it. **Q.** And said they would not what?—They would not do anything for him because he could not give any explanation of his dress or regiment, or words to that effect. **Q.** Did you say anything?—I asked one or two questions about the regiment. **Q.** What did he say?—He implied the 16th Dragoons, or some number that was utterly wrong. **The LORD CHIEF JUSTICE:** How did you know it was wrong?—He gave some number that I knew did not exist of any such regiment; I have no idea what, but it was some wrong number. **Mr. SERJT. PARRY:** How did you know the regiment was wrong; you say you do not remember how it was wrong?—Norwich is the depôt for cavalry regiments, and for years I have been acquainted with and know the

numbers. *Q.* How do you mean a regiment that does not exist at all?—Knowing there is the 16th Lancers, if he called them 16th Dragoons I should know he was wrong. *The LORD CHIEF JUSTICE:* Whatever he said, you knew he was wrong?—I knew there was no such regiment. *Mr. SERJT. PARRY:* That you are sure of?—Perfectly sure of. *The LORD CHIEF JUSTICE:* Did you make any observation upon it?—I said, ‘Why, there is no such regiment!’ Then he said, ‘How should I recollect that? I was only in it a few days; I enlisted for a spree.’ That is all that was said at that time that I remember now. *Mr. SERJT. PARRY:* Did he say anything of how he got out of the regiment?—I think he said his father bought him off.”

Let us now see what the defendant has to say with reference to these proceedings. His attention was drawn, on cross-examination, to a later letter of Lady Tichborne’s of the 17th September, in which she deals with matters which Mr. Gibbes had mentioned in writing to her—a letter to which I shall have to refer further on. “Can you explain how Mr. Gibbes came to say that you had made statements to him about enlisting?—I made no statements to him about enlisting at all. *Q.* That, of course, you are sure of?—Quite certain of that.” Then the passage from the letter is again read, “‘I believe him to be my son, notwithstanding what he told you about enlisting, and the other statements he made to you different from mine:’ Cannot you throw any light on that statement?—No, I cannot. *Q.* You cannot think how Lady Tichborne came to say that?—No. *Q.* Mr. Gibbes was called by you, was he not, before the Australian Commission?—I think not by me. *Q.* Mr. Wyatt represented you, did he not?—Yes. *The SOLICITOR-GENERAL:* He seems to have been called by you”—There is no doubt in the world he was—“The evidence is at page 180 of the Australian Commission. Did you ever say, upon being asked what regiment you were in, the 66th; that they were armed with swords and carbines, like dragoons; that they were the Blues; that you had been a private, and only thirteen days in the regiment?—I did not. *Q.* Did you read that evidence of Mr. Gibbes?—No, I did not. *Q.* Has not that been drawn to your attention by anybody?—It has not. It was not drawn to your attention that Mr. Gibbes, the man who was your attorney, and of whom you spoke so highly, said that? If he said it, it is all untrue?—It is all untrue, if he said so. It is all untrue? *Mr. SERJT. BALLANTINE:* It is all untrue if he said so! There is a great deal of explanation to be given. *The SOLICITOR-GENERAL:* There is a great deal of explanation both required and to be given: still, is it not true?—It is not true. *Q.* That you were only a private, and only thirteen days in the regiment? That you were asked where you were born, and you said, ‘Dorsetshire.’ Did you say any part of this? Did you ever say

you were in the 66th?—Certainly not. I said I was in the 6th. Q. Did you ever say they were armed with swords and carbines, and light dragoons?—Certainly. Q. Did you say they were the Blues?—Yes, they were dressed in blue. Q. What?—Blue dressings. Q. Blue dressings?—They were blue. Q. Did you say they were the Blues, is the question?—No, not the Blues; but that they were blue. Q. Did you say that you were a private?—I did not. Q. That you swear, never to anybody?—That I swear. Q. And that you were only thirteen days in the regiment?—That I swear. Q. Did you say that you were born in Dorsetshire?—I did not. Q. And you cannot account for your mother (Lady Tichborne I mean) saying you told something to Mr. Gibbes about enlisting?—No, I cannot; I am not aware she said anything about it.” Then the passage is again read, and he is asked if he can explain it. He says, “No.” “Q. If you said you were a private, you cannot explain that?—But I never have said it.” Gentlemen, the defendant and Mr. Gibbes are here directly at issue. One or other has sworn falsely. Which do you believe?

Mr. Gibbes further tells us that, when he was at Sydney, he consulted the ‘Baronetage’ to find some account of the family, and he found that the mother’s name, which in the will had been put as “Hannah Frances,” was there stated to be Harriet Félicité. He calls the defendant’s attention to it, and reproaches him with having told him his mother’s name was Hannah Frances, when in fact it was Harriet Félicité. To which the defendant answers, “Well, all I know is, she was always called ‘Lady Frances.’” That might appear at first sight a plausible explanation. But could it have been the fact? Certainly not, consistently with any of the rules of social etiquette. She could not be called Lady Frances unless she was the daughter of an earl or peer of higher degree. She could not be called Lady Francis unless her husband was Lord Francis Tichborne, which we know he was not. But it may be said that the wife of a baronet, if there happens to be a second lady of the same name—the wife of a deceased predecessor—may be so called—we find this lady was sometimes called Lady James Tichborne by way of distinction. But there is this difficulty, that Roger never could have known his mother to be called Lady Francis, for two reasons: in the first place, his father never succeeded to the title while he was in England, and his mother would not be called Lady anything Tichborne at that time; if she had been, as her husband was always called Sir James Tichborne, and not Sir Francis, she would have been called, as she afterwards appears sometimes to have been called, Lady James Tichborne, and not Lady Francis.

Gentlemen, there is another matter connected with Sydney, which calls for observation. On his way to Sydney, the defendant had left

his wife, and his infant daughter with her, at Goulburn, which is an intermediate place, where her father and mother were living. On the 9th of July he goes back all the way from Sydney to Goulburn for the purpose of having the ceremony of marriage performed over again by a Roman Catholic priest, in a Roman Catholic place of worship, according to the rites of the Roman Catholic Church. Why should he have done that? Well, a fair explanation occurs to me. He was going home to England, to present himself as a member of an old Roman Catholic family, and it would look very badly indeed in their eyes if it turned out that he had no marriage certificate to produce beyond that of a dissenting minister, certifying a marriage which had been performed in a private house. Therefore, if, contrary to what Mr. Gibbes tells us was his original intention, he conceived at the last moment the intention of taking his wife home with him to England, it might very well occur to him to get re-married, so that in case any inquiry should be made as to where and how he was married, he might be able to give a satisfactory answer. That seems a reasonable explanation. The difficulty about it is that, as he passed through Goulburn on the way to Sydney, it would have been much more simple to marry when he was there, instead of going all the way to Sydney merely to have to go back. And it has been suggested that it was only at Sydney that he, for the first time, discovered that the Tichbornes were a Roman Catholic family; which may have become known to him in either of two ways. It may have been disclosed to him by the letter of Lady Tichborne, which arrived after he got to Sydney, in which she states that the family was an old Roman Catholic family, and Roger a good Roman Catholic, and that she and her husband were Roman Catholics; but it is doubtful whether that letter, which was of the 10th of May, could have arrived in time—though it is not impossible—for him to go back to Goulburn to be married on the 9th of July. Or he might on looking at the ‘Baronetage,’ which we know he did when he got to Sydney, have seen it there stated that the family was Roman Catholic. But neither of these solutions will hold, if we can place reliance on Mr. Gibbes as to dates, because that gentleman states that while still at Wagga-Wagga, the defendant had told him that the family were Roman Catholics, although he was not a devout son of the church, nor prepared to make sacrifices in favour of the church. Suppose he had not originally the intention of taking his wife to England, but intended to conceal the fact of his marriage, thinking it might operate to his prejudice, as inconsistent with his being Roger Tichborne; and that, as Mr. Gibbes says he told him, and which is in itself not unlikely, that it was his feeling towards his child, when he saw in the child a strong likeness of himself, that determined him to take mother and child with him to England—

suppose, what one can quite understand, that he began to think, especially when he got to Sydney, "I do not like the idea of leaving wife and child behind—I will take them with me to England"—then, inasmuch as it would occur to him that it would not be satisfactory to take his wife and child to England without having had a marriage which in the eyes of a Roman Catholic family would be legitimate, he determined to go back and get re-married in a proper way by a Roman Catholic priest, and he did so. That might be a fair solution of his going back to Goulburn and re-marrying, and fetching his wife, so that we need not look for a solution of it in the discovery of his being a Roman Catholic as the immediate cause of his going back and going through a new ceremony. At the same time the other view of the case is quite possible. Gentlemen, we will stop there for to-day, and finish the Sydney history to-morrow.

ONE HUNDRED AND SEVENTY-SIXTH DAY.

Tuesday, February 10, 1874.

THE LORD CHIEF JUSTICE: Gentlemen of the jury, I called your attention yesterday to the statement of the defendant taken by Mr. M'Carthy, the solicitor to the bank, and to the substance of that statement as reduced to a short summary by Mr. M'Carthy, and to the fact that in that statement so made and summarised, the regiment into which the defendant said he had enlisted is put down as the 66th, which agrees exactly with the telegram which was sent by the defendant in answer to the telegraphic message of Mr. Cottie and Mr. Gibbes. I am now going to call your attention to a still more remarkable document, and perhaps I may say the most remarkable document which presents itself in the whole course of this most extraordinary case. Notwithstanding the statements made to Mr. M'Carthy, the solicitor of the Australian Joint Stock Bank, it seems the bank hesitated about advancing this sum of several hundred pounds which the defendant wanted. Mr. Gibbes was about to leave Sydney to go back to his ordinary place of residence and business, and he was desirous, if he could, of assisting the defendant to get the money he required, and he had recourse to a Mr. Milford, a solicitor and friend of his own, and, as he tells us, no doubt truly, a man of great respectability. He placed the defendant, as it were, in Mr. Milford's hands, and it occurred, either to Mr. Milford or Mr. Gibbes, that it might advance the defendant's interests if he made what is called a statutory declaration. You are

aware, I dare say, that by modern legislation power is given to parties who wish to verify particular statements, where an oath is not admissible, to make what is called a statutory declaration, which is a declaration made with certain forms and solemnities, and to which penalties are attached in case of a false statement being made, in like manner as penalties follow upon a false statement made upon oath. It was proposed that the defendant should make such a statutory declaration. Mr. Gibbes thought it right to accompany the suggestion by pointing out to him that if he made any statement in it which was contrary to the truth he would render himself liable to punishment; and his answer was, "I quite understand all about that." Accordingly, Mr. Milford, having before him one of the blank forms used on such occasions, to be filled up, takes down the statements of the defendant in answer to questions he put to him. This draft was afterwards copied out, and Mr. Gibbes tells us they proceeded to a notary public, and there the defendant made the declaration and subscribed it in the usual formal manner. The declaration so signed was retained by him with a view to its being used, if opportunity should occur, with any of the moneyed people at Sydney, as likely to influence their minds as to advancing money. Whether it had any such success in the sequel it is not important to us to know; but it is very important to us to know what the defendant put into it. The original is not forthcoming, but we have the draft taken down from his own lips, and the statement so made, is, as I have said, one of the most remarkable documents we have in the whole course of this cause; it is as follows:—"I, Roger Charles Tichborne, of Tichborne Park, in the county of Hampshire, in England, but lately residing at Wagga-Wagga, in the colony of New South Wales, Baronet, do solemnly and sincerely declare that I have been lately residing at Wagga-Wagga aforesaid under the name of Thomas Castro, and that the annexed photograph marked A is a true photographic likeness of myself, and I further declare that I was born on the 5th day of January, 1829, and that I am the eldest son and heir-at-law of the late Sir James Francis Doughty Tichborne, of Tichborne Park aforesaid, Baronet, by Henriette Felicia, his wife"—So far, if the defendant is Roger, the statement is not open to any exception whatever. It continues:—"That I arrived at Melbourne on the 24th day of July, 1854"—and now comes the passage to which your attention has most particularly to be directed:—"That I left England in the 'Jessie Miller' on the 28th of November, 1852." For you have to ask yourselves whether it is morally possible that Roger Tichborne could have made that statement. Roger never set his foot on the 'Jessie Miller' in the whole course of his life, and unless he heard of the 'Jessie Miller' from Arthur Orton, when they were, as the defendant states, consorting together in the bush, Roger never,

most assuredly, heard of the name of the 'Jessie Miller.' The 'Jessie Miller' was the ship in which Arthur Orton sailed from Valparaiso to London in 1851. Again: "I left England in the 'Jessie Miller' on the 28th of November, 1852." Roger left England in the month of March, 1853. He sailed, as you remember, in the French ship 'La Pauline' for Valparaiso. He left Havre on the 1st of March, and after beating about in the Channel, he put into Falmouth on the 8th, and finally left that port on his voyage on the 12th. Nothing can be more certain than that Roger did not leave England in the 'Jessie Miller,' or on the 28th of November; but who did leave England on the 28th, or, at all events, on the 29th of November, 1852? Arthur Orton. Arthur Orton's ship (he went out in the 'Middleton') left the river on the 29th. One of the witnesses from Wapping, called for the defence, who saw him in the docks at the last moment, stated that the vessel was to have gone out on the preceding day, but was detained till the next tide, and the probability is that Arthur Orton went on board the vessel on the 28th, and she sailed on the 29th; at all events, within a day or two of that is the date in the November of that year when Arthur Orton sailed for Hobart Town. And you will bear in mind that one of the statements made by the defendant—if the evidence I read to you yesterday can be relied upon—was, that he got into some scrape, about some money matter, and in consequence of that, went and enlisted, and was got out of the regiment by his father, and kept under close *surveillance* until he left England in the month of November. So that we have that month of November twice referred to as the period at which the defendant says he left England. Is it possible to reconcile that statement of his having shipped in the 'Jessie Miller' instead of the 'Pauline,' and having gone out in November, 1852, instead of March, 1853, with the identity of Roger Tichborne? It may be asked, how should the ship, 'Jessie Miller' and the date of November suggest themselves to the mind of the defendant? Only, I agree, on one hypothesis, to be considered hereafter. For the present we must not allow our attention to be diverted from the real question, which is, whether that ship and that date could have been present or have suggested themselves spontaneously to the mind of Roger. Now, if a man, representing himself to be a particular individual, is suddenly asked to name the ship in which, and the time at which, he left a given place, and he has no knowledge of the real facts as to when, or in what ship, the individual to whom the question relates did leave, he must do one of two things: he must either draw on his imagination and invention, or turn to his memory to supply some ship or some date which may happen to occur to him—some ship he has himself sailed in, and some date on which he has started on a voyage. Of the two it is perhaps the more likely that a ship in

which he has sailed, and a time at which he has sailed, should suddenly present themselves to his mind. The defendant says, I am ready to make a statutory declaration. Mr. Milford, the solicitor, takes pen in hand, and says to him, "Just let me take down from you who and what you are." He describes himself. "When were you born?" He has that in his mind and states it. "When did you arrive in this country?" On such a day. "When did you leave England?"—The question has to be answered, and if the man is not certain when the particular individual whom he represents himself to be did leave, as I said before, he must invent a date or apply some date, true as regards himself, but false as regards the particular individual about whom the inquiry is made. So with regard to the ship—"What ship did you sail in?" The first thing that would present itself to his mind would be the recollection of some ship in which he had sailed himself, and so he would mention the name. That is the one alternative. He might no doubt have taken the other course and given the first date that came uppermost, and said that he shipped in the 'John Smith,' or 'Jessie Brown,' or a ship of any name his fancy might suggest. But the statement thus made by the defendant cannot by any possibility have been the suggestion of fancy, because there is no amount of improbability so great as would be involved in the supposition that Roger, never having heard of the 'Jessie Miller,' should have hit on the 'Jessie Miller,' or that combination of names, and should have also hit on the 28th of November, 1852, that date having had no reference to himself whatsoever. On the 28th of November, 1852, Roger Tichborne wrote to Lady Doughty from Upton, telling her that he was going to London on that day, and should take a horse with him, and leave it at Winchester with a view of hunting at West Tisted on the 30th. Therefore it could not have occurred to Roger Tichborne that in the month of November, 1852, he had started in the 'Jessie Miller' from England for Valparaiso, that being, as I say, several months before he did start, and at a time when he must have been aware that he was staying at Upton. How is it that we can account for these recollections of Arthur Orton's ship and time of sailing being put by Roger Tichborne as part of the events of his life? I seek in vain for any possible solution of it. The only one that has been offered is the one given by the learned counsel for the defendant, which is, that the recollections of Arthur Orton had become the recollections of Roger Tichborne; that while dwelling so long with him in the bush, Arthur Orton so frequently narrated the incidents of his life and adventures, that they became impressed, as it were, on the mind of the defendant; so that when he was asked as to events that occurred in his own history his memory brought up not those events, but the events that had occurred in the life of Arthur Orton. Whether in

the somewhat nebulous metaphysics of the learned counsel we are to understand that that would be reciprocal, I do not know; whether Arthur Orton is wandering about with the recollections of Roger Tichborne's life in his brain, and if you asked him what ship he left Europe in would say 'La Pauline,' and if you asked him what date, would answer on the 1st of March, 1853, I am sure I do not know; possibly it is only the weaker mind that can be thus strangely operated upon. But if this, the only solution which has been offered, appears to you to be altogether delusive, then the case stands thus, that in respect of two matters, which it is next to impossible Roger could have forgotten, namely, the name of the vessel in which he had left England for Valparaiso and sailed in during a voyage of several months, and the date at which he left England, the defendant knows nothing, and gives us instead of them a vessel and a date peculiar to Arthur Orton. In your judgment, can this document lead to any other than one conclusion? It might be, certainly, that the defendant in the course of a long association with Arthur Orton might have heard again and again from him the particular dates at which he (Arthur Orton) left England, and the ship by which he left, or the ships in which he had sailed. And if the question had been, when did Arthur Orton leave England, and in what ship? and the defendant had been able to answer those questions, I should have thought the explanation a very fair and plausible one—"I have been so long with Arthur Orton, that you must not wonder if I know some of the incidents of his life, and you must not assume or infer that I am Arthur Orton, because I am acquainted with those incidents." That would be one thing, but how Roger Tichborne can have confounded important incidents of Arthur Orton's life with the incidents of his own, I must say I am at a loss to conceive. Gentlemen, those are the observations which present themselves to my mind on that most important document. If you can see any other reason leading you to a different conclusion, namely, that these are the recollections not of Arthur Orton but of Roger Tichborne, by all means adopt it. I can suggest none.

At this time, the defendant having received a letter from Lady Tichborne, which letter, however, is not forthcoming (it may have been amongst those which, as he tells us, were left behind in Australia), and which letter must have been contemporaneous with the letters of the 18th May to Mr. Gibbes and Mr. Cubitt, which I read to you yesterday, he writes to her in these terms:—"My dear Mamma,—I received your letter yesterday morning. And was somewhat disappointed, that you do not Acknowledge me has your son"—From that I gather that she must have spoken in this letter much more doubtfully than she had done in her former letter of the 25th February, in which she addressed him as her "dear and beloved Roger,"

and implored him to "lose no time in coming to his lonely and widowed mother," and in which she seems to have accepted him as her son without any qualification—"Surely my Dear mama you must know my writing. You have cause me a deal of truble."—You remember I pointed out to you, when going through the letters of the undoubted Roger, he not unfrequently dropped the final "d," which converts the present tense of a verb in English into the past; but it only occurred occasionally; you will find that it occurs perpetually in the letters of the defendant—"You have cause me a deal of truble."—Trouble is always written without the "o"—"But it matters not. Has I have no wish to leave A country ware I enjoy such good health I have grown very stout. Yesterday one of Uncle Edwards Old servants call on me. he been living here a long while. He is name Guilfoyle. you must remember him. He was remodeling the Garden at Tichborne. when I was staying at Uncle Edwards. He knew me has soon as he see me. His wife was with him. she look very young yet. And yet she has eleven children. You spoke of Bougle"—spelt with a "u"—"in your letter to Cubitt. I have made enquire"—"re" instead of "ry"—"but cannot find him. Mr. Turvel is here with Sir John Young. I have seen him. And had A long conversation with him. I heard that the Rev. Father Phillip was out here. but I cannot find him. My Dear Mama the post closes in ten minits more for France so I will say good bye. in case I am too late. If to late i will send this to England has the English Mail does not close for two hours after the Mail for France. I have enclose a photograph of myself. that you may see how greatly I have emprove. Hoping my dear mama to see alive once more. But I am afraid not has I can not get surfiencie of Money to come home with. Good bye my dear Mama and may the Blessed Maria have mersy on your soul"—"mercy" being written with an "s" instead of a "c"—"I remain your Affectionate Son, ROGER CHARLES TICHBORNE." Now there are two or three things which strike one here. This is the first adoption of the term "mama," which you will find perpetually recurring in the form of "My dear mama" in these letters; and it is remarkable for the reason that Roger, from the time he became a man, never used the term "mamma" in any one of the letters; and he never repeats the "My dear mother," with which a letter commences, except occasionally at the end, when he says, "My dear Mother, I remain your affectionate son." He never repeats "My dear mother," or "mother," in the body of any of his letters, I think I may say without any exception. That is the first observation. The second is, that Roger never introduces religious sentiments or observations, or religious ejaculations, in the course of his letters. I do not remember a single instance; therefore I am struck by the expression—"and may the Blessed Maria have mersy on your soul." And this, I can-

not help recollecting, was written after the letter of the mother had been received, in which she states they were Roman Catholics, and that Roger himself had been so, and, as she says, "a good Roman Catholic." Immediately after that letter, we have this one of the claimant, with this religious hope put in at the close of it. And another thing occurs to me. I do not know whether I am right, but I cannot help thinking that the "Blessed Maria" must have been of South American importation. I apprehend that an English Roman Catholic would have said "the Blessed Mary." Maria is Spanish for Mary; but an Englishman uses the word "Mary." We speak of the Virgin Mary, and not the Virgin Maria; and, so far as I am aware, an English Roman Catholic, speaking of the Virgin, would speak of her as Mary and not as Maria. That is how it strikes me. This letter is remarkable in respect of grammar, and spelling, and style of composition, a matter to which your attention must be directed, because it is one of the essential features of the case. Hand-writing, grammar, orthography, punctuation, composition, are tests by which you can judge between an educated and an uneducated man; that is to say, between one individual and another. Now here in twenty lines there are eighteen misspellings, and eight mistakes of grammar; amongst others, the word "as" is written with an "h" no less than six times. The punctuation is most peculiar, not only in its superabundance, but also in the use of the full stop where the comma only is required, which you will not have forgotten we found in the letters of Arthur Orton.

On this same date Mr. Cubitt writes to Lady Tichborne:—"Dear Madam,—I am in receipt of your letter of May 10th, and, although a long one, as your son is now in Sydney, and preparing to leave for England on the 1st September by the Panama route, there is very little to reply to. On the subject of rewarding, this has been arranged with Sir Roger, and he has given me his Bills on the Oriental Bank Corporation in London, dated so as to give him plenty of time to honour them at maturity." I must say I think this was certainly a very strange proceeding on the part of Mr. Cubitt, because he had agreed with Lady Tichborne, that, while he was to be remunerated for his expenses, such as they might have been, his ultimate reward was to come out of the estates, when these should be recovered; but he gets the defendant at Sydney to give him bills, as does also Mr. Gibbes, to the amount of 500*l.* each. "In conclusion," he says, "I have now to congratulate you on finding your son. I have no doubt of his identity, and I sincerely hope you may have a happy re-union, and that no difficulties will arise on your side the globe in restoring him to his estates."

Now the matter would very likely have rested where it did, and the bank would not have been induced to advance the money to the

defendant, had it not been for the interposition of a gentleman of the name of Turville, who appears to have meddled in the matter very unnecessarily, and to have played a very foolish part in it. He had known, and known intimately, the parents of Roger, but had never seen Roger in his life, nor had Roger seen him, and therefore he was quite incompetent to form a judgment as to the identity of the defendant who was coming forward as Roger. It was not unnatural if the defendant desired it, that he should have an interview with him, and that he should form the best judgment he could; but it was quite impossible for him to form any sound, conclusive judgment, inasmuch as he had never seen the man. However, they have an interview, of which Mr. Gibbes gives us an account, and Mr. Turville put three tests to him. The first question he asked him was, whether his mother was stout or thin? He said "stout—a tall, large woman." Now it is scarcely possible to imagine anything more unfortunate; because it is admitted on all hands that Lady Tichborne was leanness itself. Miss Nangle said she was more like a skeleton than anything else. If I may use an expression, which seems to be a contradiction in terms, I might say that she was the very incarnation of leanness; and she was by no means tall—of a fair height, but not to be described as a tall woman. "Well," says Mr. Turville, "I do not find that quite so; however," he says, "perhaps that may be explained." How it is to be explained I am sure I do not know. What the defendant meant by it is very clear; for it so happened that Mrs. Butts, the wife of the proprietor of the Metropolitan Hotel, at which he was staying, was, as Mr. Gibbes describes her, a tall and burly woman, and the defendant said that was the sort of woman that his mother was. Nay, more, he was touched, after so many years, with such a warm sense of filial piety, that he declared, that when he came into his fortune he would do something for Mrs. Butts, as she reminded him so much of his mother! Then the next question Mr. Turville asks him is this: "If you are the man you say you are, you will remember where you were and where your parents were in May, 1852?" "The defendant leant on his hand, and looked down," says Mr. Gibbes, "for a few minutes."—And then he says, "Yes, they were at Paris, and I was in Dorsetshire." I do not know what place he was thinking of in Dorsetshire, whether Upton or the Hermitage, or what, but he says "I was in Dorsetshire." "Yes," says Mr. Turville, "you are right, I was in the house with them at the time." It is quite possible that Mr. Turville was with Mr. and Mrs. Tichborne in Paris, but how he should know Roger was in Dorsetshire is more than I can tell; the more so as Roger was not in Dorsetshire in the month of May, 1852; he was at the Portobello barracks, in Dublin. Mr. Gibbes, however, on this being pointed out, adds: "I

may err as to the exact date I have named, 1852." "Are you quite certain about 1852?" I asked, "because he was at Portobello barracks, Dublin," and then he says, "It may have been May, 1853." That could not be either, because he was then on his way from France to Valparaiso. So that either Mr. Turville or the defendant must have been altogether wrong, or Mr. Gibbes must be giving you an erroneous statement about this. It could not have been as it is there represented. Now the third question, whatever it was, Mr. Gibbes has unfortunately forgotten. If the question and answer taken together were as unsatisfactory as the two Mr. Gibbes does tell us of, and which I have just called attention to, certainly this interview was not attended with any satisfactory result. However, Mr. Turville appears to have been satisfied; he shook hands with the claimant, and wound up by saying, "What convinces me of your identity more than anything whatever, is your strong resemblance to your father, especially about the mouth." That is what Mr. Turville said, says Mr. Gibbes, "I believe those were the exact words." Now any conviction of Mr. Turville's must have been, I think, but a faint one, because I find that writing to Lady Tichborne on the 23rd of November, from Sydney, he says: "Your letter of September the 20th reached me on the 15th instant, and I will at once assure you that you need make no apologies for troubling me, as I shall be most happy to be of any service to you."—She had written to him begging him to look after her son, but her letter did not reach him until after the defendant had left—"Throughout your letter you speak as if perfectly satisfied with the identity of your son, so of course I shall speak of him as such. I called on him twice while he was here, but as I had never seen him before, and as my name even was quite unknown to him,"—bear that passage in mind, it may be important hereafter—"it was impossible for me to be sure of his identity; but I thought it right to make myself known to him, as I was probably the only person out here acquainted with his family, and I should have been happy to have given him any advice, which, however, he did not seem to stand in need of from me. Under these circumstances I felt myself unwilling to force myself upon him. I mention this in reply to your wish that I should seek him out, give him advice, and be kind to him." From this it would appear that though Mr. Turville was holding a conspicuous position at Sydney, and would have been glad to befriend the claimant, the latter was not disposed to see more than was necessary even of his father and mother's old friend, a fact scarcely favourable to the defendant, as it may have proceeded from an unwillingness to expose himself to further observation or inquiries on the part of Mr. Turville. At the same time I cannot help thinking that Mr. Turville's recognition, such as it was, was calculated to be of use to him, and lead to the

bank advancing him the sum of money which he wanted ; and it would be made the most of, I dare say, by Mr. Cubitt and by Mr. Gibbes, both of whom were extremely anxious that the identity of the claimant should be established, because they were both to have a large reward in the event of that taking place.

Then there comes another incident which seems to have had a considerable influence on the mind of Mr. Gibbes, and did much to dispose him to believe in the defendant. He and the defendant go together to a jeweller's shop, at which there was a stereoscopic representation of Paris—a shop kept by M'Donald & Co. Mr. Gibbes takes up the transparency and looks at it, and the defendant, who is standing close by, says, "Oh, that is Paris!" And it being a representation of a particular part of Paris, Mr. Gibbes says he thinks some part of the Boulevards, the defendant named the particular part, whatever it was, correctly ; for Mr. Gibbes, though he had never been at Paris, had no difficulty in ascertaining that, because there was a slide which gave the name of the part of Paris intended to be represented ; and he found, on looking, that the defendant was right. Now that would be a very striking fact, if the defendant had had no opportunity of seeing beforehand what this stereoscopic representation was intended to designate ; but then Mr. Gibbes cannot tell us whether or not the defendant had been in the shop, and had seen this thing before. If the defendant had been there, of course he would have had the same opportunity and means of ascertaining what the particular picture represented, as Mr. Gibbes had when he looked at the slide which indicated it. Had he ever been at that shop before ? We have no proof of it, but we know that he had been at some jeweller's shop in Sydney before, because after he got there he had a ring made, and the stone engraved with the Tichborne crest. He told Bogle so, and showed him the ring. It may have been at this very shop that he went to order this ring and there saw that representation of Paris ; and there is one thing that might have occurred to Mr. Gibbes' mind, though it does not appear to have done so—he had told Mr. Gibbes that he had only remained at Paris until he was eleven years of age. Now between the time when he was eleven and the time we are speaking of, 1866, a long series of years had elapsed, and it might have struck Mr. Gibbes as a singular thing that the boy of eleven should remember exactly the particular part of Paris which this stereoscopic transparency represented. However, it is a fact that the defendant did name to Mr. Gibbes—I am quite sure Mr. Gibbes would not deceive us in that respect—the part of Paris which that transparency represented. It is uncertain whether he had ever seen that transparency before. We must not assume as a fact that he had, although we may fairly assume the possibility of the thing ; and if he recollected anything

about Paris he could not have recollected it as Orton, because one thing is clear, and that is, that Arthur Orton never was at Paris. Passing that by, we come to the fact that he had ordered a ring with the Tichborne crest—how should he have known the Tichborne crest? If he had no means whatever of learning what the Tichborne crest was, the knowledge of it would be a very striking thing indeed in his favour. How should Arthur Orton, or how should anybody else who was not Roger, or who was not in some way related to the Tichborne family, or connected with them, know what the Tichborne crest was? The question admits, however, of a simple answer: On another occasion, when this part of the story was not present to his mind, the defendant admitted that he did see a ‘Baronetage’ at Sydney. Of course he did not take it up without looking at the name of Tichborne; he did not take up the ‘Baronetage’ casually without some motive or design. I think we may assume that he did not omit to look at the name of Tichborne, and it would of course contain the account of the Tichborne baronetcy. There would be, as there is in all those books, the arms and crest. There was also another source from which that might have been derived—‘The Illustrated News’—supposing him to have seen it—for the arms and crest were annexed to the account of the deceased baronet.

We now take leave of Mr. Gibbes, but with this further fact, that there can be no doubt whatever that before he finally left Sydney he wrote to Lady Tichborne, pointing out to her the various discrepancies between her son’s representations and her own statements about him. I should think he did not write without some intimation of doubts on his part created by those discrepancies, which are certainly of a very striking and startling nature. Notwithstanding any doubts, however, which Mr. Gibbes may have entertained, he does not seem to have hesitated about accepting a very large reward; for he was not only promised by the defendant 1,000*l.* as his reward for having discovered him, but he received actual acceptances to the tune of 500*l.* Now there is something certainly very singular in this. The defendant, as he originally represented to Mr. Gibbes, was more than reluctant to be dragged forth from the obscurity in which Gibbes found him living; he was “disgusted” at being discovered; and yet he gives the man who discovers him acceptances for 500*l.* and the promise of 500*l.* more, for dragging him, against his will, from the obscurity to which he had voluntarily consigned himself, and in which he desired to remain! This certainly does seem a very curious inconsistency, but so it was; and in like manner he gives acceptances for 500*l.* to Mr. Cubitt, and he gives him a highflown testimonial, not, indeed, composed by himself, as we know from the evidence of Frederick Cubitt, but drawn up in the language of Mr. Arthur Cubitt himself. You will see in what glowing terms the defendant

is made to speak of the man who had the immense merit in his eyes of discovering him and bringing him out—the trouble of which would have been wholly unneeded if the defendant was himself minded to come out of the darkness and present himself to the world as Sir Roger Tichborne. If he was not, why express gratitude to the discoverer?—“Prior to my departure for England, to take possession of my title and estates, I desire to place on record my high appreciation of the perseverance and energy you have exercised in bringing to a successful issue, after many months’ toil, your search after me”—The toil, as I have already pointed out, having consisted in putting a few advertisements into the local papers and writing a few letters. —“Having been personally convinced of your unflagging diligence in conducting this branch of your business, and that at considerable expense, with scarcely a hope of achieving your object, you prosecuted your inquiries until they were crowned with success.”—What flowing periods!—What prodigious misrepresentation!—“I can confidently recommend your institution to those anxious to discover lost friends, with a firm conviction that in your hands their interests will be carefully kept in view, and that they may rely fearlessly upon your judgment, zeal, and integrity. To persons in search of next of kin, relatives, and friends, your establishment is invaluable; and I shall always be glad to hear of, while I heartily wish for, your success in all future undertakings. I remain, dear sir, yours faithfully, Roger Charles Tichborne, Bart.—P.S. You are at liberty to make what use you please of this letter.” Whether Mr. Cubitt published that letter in the papers I do not know; it is extremely likely. The whole of that gentleman’s merits, which he seeks to exaggerate in the most unjustifiable manner, with the view of swelling the reward which his avidity was desirous of obtaining, amounted to nothing more than the commonest newspaper agent might have accomplished; it consisted in putting a few advertisements in the newspapers. The whole merit of the discovery, if merit there was, was due to Mr. Gibbes, and not in the slightest degree to Mr. Cubitt. The 500*l.* for which he got acceptances, which he managed to get paid, was a reward largely in excess of anything he had a right to claim, and which he ought never to have thought of exacting, because he really had done nothing beyond what I have pointed out.

Well, in spite of all difficulties, the bank advanced the money; but another matter occurred, just about this time, which no doubt had a very considerable effect in influencing the minds of the persons who were concerned in the matter to believe in the identity of the defendant, and that was the recognition of Bogle, and to that I shall have presently to call attention. Before I do that, however, let me complete the correspondence. Lady Tichborne writes on the 22nd, but the letter, of course, did not reach Sydney until the defendant had left. She writes to Mr. Gibbes, and the first part of the letter con-

sists of an expression of regret that things are going on slowly; and then she says she has sent 20*l.* to enable her son to complete his journey from Wagga-Wagga, and buy a little linen, and so on. Then she says: "I must return to the subject which interests me so much. I trust that you will continue to advance him the money for his food, lodging, and also his washing, as I will return every farthing of it to you by-and-by, and you will be amply rewarded for everything you have done for my beloved son, and as you began or embarked in that business, I hope you will go through it, and you will find in the end that you have done a good and advantageous thing, and what men of business call a capital affair by doing it; only the distance is so great that it prevents the things from being quickly done. As for his creditors, their good sense must tell them to let him come to London to be identified, for what can he do without it? And as soon as he is, the things will go straight, and his debts will be paid immediately. All the fortune is in the hands of the Chancellor. My poor dear son Alfred left a little boy, only three months old, and he is a ward in Chancery, but notwithstanding all that my solicitor told me that they cannot keep Sir Roger out of his possessions one hour when he has been identified. I fancy that the photographs you sent me are like him, but of course, after thirteen years' absence there must be some difference in the shape, as Roger was very slim. I suppose also those large clothes must make him appear larger than he is. I am, however, much obliged to you for having sent them to me. I think it will be an advantage if you accompany him; therefore, I beg you to do so; I shall be delighted to see you with him. He will require very clever men to be with him, as, having been so long away from England, he is no longer accustomed to the English manners. I suppose you will like to come to England, where perhaps you would be better than where you are. My son Roger will, I know, be very happy if you accompany him; and you need not wait six months again for embarking, but if you could embark as soon as you have had this letter it would be the best plan. I hope my dear son Roger Doughty Tichborne will have patience, and that you will have the kindness to take great care of him, as I felt very unhappy at reading in your letter that he was near falling into despondency. He must have courage, and now that he is near reaching the port he must go through his passage home with courage and patience. His creditors cannot set themselves against his coming home, as it is the only way to settle that business, or rather to pay his debts. You might read them this letter if you think it can be of any use to you. I shall go to-morrow to the office and desire them to let you and Roger know when their vessel sails: then he will soon be near me again after so many years' absence; and as for the banker, my solicitor told me how extraordinary it is that the young man will not

make himself known and tell them who he is, and also perhaps refer them to me, as he would have as much money then as he requires. The Doughty property brings in 15,000*l.* a year, and it is when they inherited it that the Tichbornes have added the name of Doughty to their own family name, and the Tichborne property brings in, I believe, 5,000*l.* or 6,000*l.* a year. Therefore, you see that there will be ample to reward you, and also to return you what you may advance for him at present. My best love to my dear son Roger. I trust that 20*l.* will do for the present, and pay his journey down to Melbourne." Then, "Roger has in his own power to get as much money as he requires from the banker, if he tells him who he is, and refers them to the London and Westminster Bank, where I am well known, and where I bank. If he will not get any money that way, could they not advance a little to you at once, and to pay for his passage?" In a postscript she adds, "I should think if you show this letter to your banker, he will advance you the money if Roger would name himself. My solicitor thinks it is a very extraordinary thing he will not name himself to his banker, as bankers are in general very discreet, and obliged to be so. He might name himself to him, even if he did not to anybody else." Then Mr. Gibbes writes, and acknowledges the receipt of her letter, and says it does not contain the 20*l.*, as she states, but he adds that it is no longer required. "I presume at the time I am writing this, that Sir Roger is not far from English shores, he having sailed *viâ* Panama, on the 2nd ultimo. With many and sincere thanks for your liberal intentions, I may inform you that Sir Roger's own marked generosity in giving me drafts on England for 500*l.*, payable after his arrival there, has far more than requited me for any services I have performed"—That is a point on which I entirely agree with Mr. Gibbes—"Although he arrived in Sydney in June, and made himself known, yet our suspicious Sydney men would not advance the money he required, and it was only with the greatest difficulty it was at last obtained, and then at a most exorbitant rate. Sincerely congratulating you upon your having by the time you receive this again seen your long-lost son (to whom I am writing by this mail), I am madam," and so on. On the 16th September he writes to her again. "In all probability before you receive this you will have seen your long-lost son, for in spite of the discrepancies between his statement of his youthful career and yours, such I am confident he is"—He may have been so, but how Mr. Gibbes, with these discrepancies before him, could take upon himself to say he was confident that the man who had given him an account of his early life so directly in contradiction to that which the supposed mother had given, was her son, is, I confess, to me somewhat extraordinary; and I cannot help thinking that, as the wish so often guides the judgment of men, the wish that he should prove Roger, and be able to pay the

thousand pounds which he had promised Mr. Gibbes, had a good deal to do in inducing Mr. Gibbes to entertain the confidence which he thus expresses—"In case of any unforeseen delay in your son's return voyage, I beg to inform you that he, together with Lady Tichborne and infant (girl), and a servant named Bogle, who had been valet to his late uncle (and who, I learn, has been receiving 50*l.* per annum from the Tichborne family through the Union Bank at Sydney), all sailed in the Panama mail steamer on the 2nd September instant from Sydney. Previously to this he had been identified positively, not only by Bogle, but by one Guilfoyle, a market-gardener in Sydney, who was gardener to his father, the late Sir James, and who is now a wealthy man—also by his wife. I was previously satisfied from Mr. Turville's statement, that he really was *the man*"—Mr. Turville not having being able to throw any real light on the matter—"His delay in coming was mainly attributable to the difficulty of getting a sufficient advance to go home properly, as however convinced I was of his identity, I could not persuade others to be equally so, especially without mentioning matters that Sir Roger would not have wished. I trust, however, ere this comes to your hands that you will again have had the satisfaction of seeing your son, and that your maternal anxieties will be at an end. I had almost forgotten to mention that he is accompanied on his journey by a young lad, a *protégé* of his, one Master Butts, the son of a citizen of Sydney, who could be sent on to England as an envoy in case of accidental delay. I hope by the next mail, notwithstanding my fears to the contrary, to hear from you that you have received my first rough photographs of your son. By your letter you seem to imagine that Sydney is near Wagga-Wagga (pronounced Wogga-Wogga, a native name for *much water*, as we are surrounded on three sides by a river), but you will be surprised to hear that it takes three days, travelling day and night, from one place to the other—this is the furthest town of any size in the interior, and is 335 miles from Sydney, and 311 from Melbourne." These distances may be material—335 from Sydney, 311 from Melbourne. Then he concludes as usual, and adds: "Permit me to remark my name is Gibbes, not Gibbs—the mis-spelling might lead to a letter miscarrying."

Lady Tichborne writes again to the defendant on the 16th September, which letter however he does not get, as he had left:—"My dearest and beloved Roger—I think I will send you 200*l.* by the Australian Bank. I trust you will think it sufficient and that you will come immediately; that will do to pay the few things that you may require before leaving Sydney, and as I pay your passage and also the passage of your family, you will not have any reason to say you have not sufficient money to return to England. I am so anxious to see you that if it was not so far off I would go myself to see you

my dearest son. God bless you, my beloved son, and never doubt my being your very affectionate mother, Henriette Felicité Tichborne." She adds, "I have told Mr. Cubitt that it would not be right to ask you any money, as you had none at present, and as for the reward, he has no right to ask you any before you are in possession of your estates. I am very uneasy at your having given your signature in that way as you know yourself you cannot do anything before you are in possession of your estates. That was his agreement with me. I beg you to be very circumspect in giving your signature, as you would put yourself in a bad position, especially being at such an enormous distance from me, and it is a very unfair way of acting on Mr. Cubitt's part, as he knows very well you have no money, and the reward was to be paid when you would be in possession of your estates, which is not the case, and will not be for some time"—The good lady was quite right in saying that. On the 16th, she writes to Mr. Cubitt, and says: "I have now made up my mind to send the 400*l.* required for his passage. I have sent them to Sir Roger Charles Doughty Tichborne. I do not know whether my having sent them in his own name will create any difficulties; I did not know how to act, and if Roger has already sailed, the money will remain at the bank till further orders." For a long time she had acted on the very prudent and proper advice which had been given by her brother, and by her own solicitor, Mr. Bowker, who I think, from what we saw of him, was about as safe an adviser as she could have had. She had acted thus far upon their advice in not doing anything in the way of advancing money, or making herself liable, until she had seen the claimant, and satisfied herself that he was really her son; but at last the feverish anxiety to get him over to England prevailed over her judgment, and she sent out the 400*l.* It so happened, however, that he had got the money he wanted from the bank, and consequently her 400*l.* was saved to her.

Now comes a very remarkable letter which deserves your careful attention. It is a letter from her to Mr. Gibbes in answer to one which is not forthcoming—what has become of it we are not informed. The first part of the letter is about money matters, and about Mr. Cubitt having induced her son to give acceptances, and complaining of his having so done; then she goes on thus:—"I am very anxious you should continue to pay attention to him," speaking of her son, "for fear he should give his signature again in the same way." And then, underscored, "*I believe him to be my son* notwithstanding what he told you about enlisting and the other statements he made to you different from mine. I think that he has been through so many things since he quitted home, and has had probably so much to put up with, and perhaps to suffer, that it has confused his ideas. As for his birth, I was married

in 1827, and he was born, I believe two years afterwards, but that will be easily ascertained in the register of the parish of La Madeleine in Paris, where he is born, and also in the registers of the parish of Tichborne where he was also registered. I do not think anything of his not knowing his age exactly, as I have met other people who did not know their own age exactly. Another thing which is *very important* is his own marriage. It is absolutely necessary that you should try to find out whether he is regularly married, as, if it is not according to the laws, the birth of the children will be disputed"—You see the possibility of his having married and having children is there assumed; or if the fact had become known to her, as I presume it had, from the correspondence, it does not create the slightest doubt in her mind about his being her son Roger. All she is anxious about is as to his marriage being a regular one, so that the legitimacy of the children should not be disputed—"If it is not according to the laws, the birth of the children will be disputed. He must speak candidly on that important subject. You know yourself how important it is where there is entailed property; and if he married under another name, can the marriage be legal? And I also wish to know whether he has been married according to the Protestant religion. All those things are very necessary to know. I do not mean to give any opinion about his marriage except in a legal point of view, and on account of the birth of his children, as the properties that I hope he will have in due time are entailed properties. I hope you will make a point of seeing him soon and before he starts, to explain all that to him, and also to speak to him about the bill that he has given to Mr. Cubitt. It was not certainly a fair way of acting on the part of Mr. Cubitt, and I am really much alarmed about the consequences. He, Roger, has given a bill on the Oriental Bank of England, and unless his wife has some fortune, I do not know where he can get money. It is very necessary to guard him against that very inconsiderate way of acting, as he has not reflected upon the consequences. I remember Mr. Francis Turville very well. His father was an intimate friend of Sir James, and it is a providence for my poor dear Roger that he should be there, I trust, in remembrance of Roger's poor dear father, that he will be a friend to my poor son, who is alone and without any friends. Roger, he is very grateful to you for your kindness to him, and I assure you you need not be afraid to use your money, as I will return to you the money you have advanced him, if he cannot do it himself when he is in possession of his estates. I believe him to be rather giddy, and that is one reason, I think, why his statement differs from mine." Now, it is undoubtedly true that a mother ought to know the character of her own son; but we have had some opportunity of studying Roger ourselves. Should you say that giddiness was one of his

characteristics? He was a man who took his own course; he was not to be influenced by the direction or advice of others; he acted on his own judgment with inflexibility of purpose, but do you see anything giddy about the man in the whole course of his letters? Do you see anything flighty, anything leading you to think that he acted without reflection. A giddy man is one who is led away by fantastic impulse, and who does not reflect upon the propriety or consequences of what he is about to do; but was there anything in Roger, to warrant the assumption of giddiness, or is not this one of those instances in which this good lady assumes something unreal in order to reconcile difficulties she is anxious to get over, and which could not be got over otherwise, lest if they were not got over, the yearning desire which animated her and possessed her whole mind and thought and soul, would be disappointed. I cannot help thinking that she goes a great deal too far in assuming giddiness on the part of Roger, whereby to account for the defendant doing things which Roger would not have done, and saying things which Roger would not have said. She continues: "Till he went to Stonyhurst he had a preceptor who had been one of the Christian Brothers, but it was in Paris." It is a question here whether Mr. Gibbes was right in writing—as most undoubtedly he did—that the defendant had said his preceptor was a Jesuit, or when the defendant afterwards said he had not said a Jesuit, but a Christian Brother, was right in adopting the defendant's statement. Mr. Gibbes says his opinion is that that may have been so. Whether it was so is, I think, somewhat doubtful, because it is quite clear Mr. Gibbes wrote "Jesuit" and not "Christian Brother," and he wrote it just after the time the statement was made. However, I do not know that much turns on it one way or the other. Lady Tichborne continues:—"And then he spoke very little English, but I think it is better to leave that matter alone"—that is to say, the subject of his having spoken French and not spoken English—"as I am afraid it would prevent him from coming to England"—That is—if you suggest to him contradictions of statements he has made it may produce on his mind an impression that if he comes to England those contradictions will be adverse to him, therefore do not say anything to him about it.—"And I think that if he has not sailed when this letter arrives, that you had better persuade him to *go at once* and *sailed with him* also, as I am afraid he will not come unless you come with him." Then there is some more about the 400*l.*, which I pass over. Finally she says: "Mr. Vincent Gosford, and not Sir Vincent Gosford, was land-agent to Sir James Tichborne and one of his executors." Now, how Mr. Gosford came to be here mentioned I do not know. We do know that at the end of June, when the defendant was telegraphing in answer to one of the telegraphic messages sent to him by Mr. Cottee,

containing the question of who was the agent at Tichborne when he left, he answered that he did not know. Therefore, I presume that at that time the name of Mr. Gosford was not known to him; either it had never been known to him, or it had been forgotten by him. The answer is distinct and clear—"Name of Agent for Tichborne Park when I left I do not know." Between that time and the time when Lady Tichborne was writing, on the 17th of September, 1866, the name of Gosford must have come up, and some mention must have been made of it by Mr. Gibbes in writing to her. Guilfoyle was at Sydney, and the defendant certainly came into communication with him, and Gosford's name, as the agent of the estates, would be a household word with him, he having been gardener so long with Sir Edward Doughty. Whether that brought up Mr. Gosford's name, and whether in writing to Lady Tichborne the word "Mr." was written in such a way as that it might be read "Sir," and she took it as "Sir," and so thought it necessary to correct the supposed mistake, I do not know; that is the only way I can solve the difficulty, which is certainly not a slight one; as it is certain that he had previously telegraphed that he did not know who the agent was.

By the JURY: Did he not mention the name of "Hallin?"

The LORD CHIEF JUSTICE: Yes, and on that Mr. Hawkins founds an ingenious argument. He says that a Mr. Hallett, who lived at Bridport in Dorsetshire, was known to him as an Orton connection, and that, not knowing what name to give, he put in what his memory brought back as Hallin, although in point of fact it ought to have been Hallett.

By the JURY: That is previous to the time when he said he did not know who was the agent.

The LORD CHIEF JUSTICE: The question in the first telegram having, I suppose, been, "Who was your father's agent?" he answers, "Hallin," which Mr. Hawkins suggests stands for Hallett. The suggestion may be well founded. It is easy to suppose he may have confounded Hallett with Hallin. Certain it is that when he is asked, "Who was the agent of Tichborne Park?" the answer is, "I do not know."

I now come to the last letter, I am happy to say, of Lady Tichborne to either of the persons in Australia with whom she was in correspondence, but it is a very important letter. Mr. Gibbes had evidently written to her, pointing out the difficulties which were weighing on his mind, arising out of the conflict between her statements and those of the claimant, and, amongst other things,

had doubtless reminded her that she had said nothing about the brown mark or about the Brighton card case. It was a very natural thing for a man to say, "There are these discrepancies, which certainly have a very awkward appearance, though I still confidently believe he is Roger. But there is another thing which occurs to my mind: in the very first letter he wrote to you, he referred to two facts as proofs of his being your son—the first, the fact of there being a brown mark on his side, the second, that of his having been concerned in the Brighton card case—as things which you knew all about. You have never made any reference in your correspondence to either of those two things. They are things which either one way or the other are very strong to lead to the belief or disbelief that he is your son." She writes: "I have made up my mind to send the money 400*l*. They will forward it at the Westminster and London Bank, or rather the London and Westminster Bank, where I bank; and if Sir Roger has sailed, it must remain at the bank till further orders. It is sent to Sir Roger Charles Tichborne. I did not know how to send it. I hope it will not make any difficulties. You say that I do not mention anything about the mark that he has on his left side. It is because I do not recollect it, and I do not believe I ever saw it, but it does not signify, as he may very well have had it without my knowing it." We have thus the unmistakable fact that, so far as her memory served her, she never saw this mark, and had no knowledge whatever of it. Now ask yourselves if it is likely that a child could have had a mark three or four inches long, and one-and-a-half in breadth, without the mother knowing it. It may be that a lady in Lady Tichborne's position, who did not wash and dress her child herself as a mother in a more humble sphere of life does, but would have all that done by a nurse or nurses, might not have the same opportunities of seeing her child undressed as such a mother would have; but a congenital mark of that sort is naturally a thing that occasions observation. Can one suppose that some time or other Lady Tichborne never saw her child naked in the course of its being washed and dressed? or at all events that the nurses would not tell her of it and say, "Here is a curious thing; the baby has a brown mark on its side; such a long brown mark! it is four inches long, and one-and-a-half wide; would you not like to see it?" It is difficult to suppose that such a thing would not be known to a mother, in some way or other, either by ocular inspection, or by communication from the nurses who daily washed the child—and should not have known something about it. However, that is matter of observation; one thing is clear, that she had no knowledge whatever of it, and it came upon her as a thing which she had never heard of. Then she goes on: "As for his preceptor, he was one of the Christian Brothers, and I think he may have made a mistake and thought he was a Jesuit.

He has confused one with the other. He told me when I was in Paris, that if Roger was to come back, he would of himself go over from Paris to have him acknowledged, as he knew him very well. He is very honest and very good-natured, and he said so, because I said that after so many years' absence there are sometimes difficulties that you do not expect"—Whether she was here referring to Châtillon, or to Jolival, I do not know, and we have no means of judging—"I think my poor dear Roger confuses everything in his head just as in a dream, and I believe him to be my son, though his statements differ from mine"—Gentlemen, you must judge whether the defendant is a man who confuses everything in his head just as in a dream. That is what his learned counsel has endeavoured to impress on your minds—I know not whether successfully or unsuccessfully. One thing is clear, that the moment Lady Tichborne, in her anxiety to find her son in the defendant, once adopts this theory, without having any materials upon which to form her judgment, not having seen him, or communicated with him otherwise than in one or two unsatisfactory letters—the moment she conceives this idea, it enables us to see how she may have got over difficulties which might have been more serious and staggering obstacles to any one exercising a clearer and calmer judgment, and waiting to form that judgment until they had all the necessary materials at command. Here is a lady, who having received an account of statements, directly contrary to her own knowledge of the facts, instead of entertaining the doubts which the circumstances might well have engendered in her mind, gets clear of all doubts by saying, "Oh, he confuses everything in his head as in a dream. He has gone through so much that his mind has become disordered, and therefore I shall not draw any inferences adverse to his being my son from all these statements, however contradictory they may be, and however inconsistent with the fact." She continues—"There is one thing that struck me which is that in the photography both him and you sent me, he has the same small hands that he used to have. Roger had remarkably small and a very pretty hand for a young man, especially, and I think that in that photography the hands are small. I remember when he was twenty it was very striking, and if you add 13 years to it, you find, I think, the same small hands that he had. That peculiar thing has done a great deal with me to make me recognise him. As for St. Vitus's Dance, he never had that malady, but when he was travelling in South America his servant wrote to me, or to Sir James's agent, Mr. Gosford, that Sir Roger had rheumatism and could hardly walk, but that he was better. I think, again, Roger has mistaken one thing for the other." Now certainly that would imply a confusion of thought that one can hardly conceive; for if there are two maladies unlike one another, they certainly

are rheumatism and St. Vitus's dance. How a man who had had rheumatism could have conceived he had had St. Vitus's dance, and could have confounded rheumatism contracted in South America when he was 23 or 24 years old, with St. Vitus's dance, which he had when he was a small boy, is really very difficult of comprehension; but if you choose to believe anything, why it is easy enough to believe it. The fact that men are easily led to believe what they wish is as true now as when the illustrious Roman wrote many centuries ago: "Quod volunt homines id facile credunt." And this is an instance of it, that when Lady Tichborne is told that her son had said he had had St. Vitus's dance, she says he must mean that he had had rheumatism in South America—She adds: "I hardly like to write my ideas upon that subject. I do it because I know his disposition thoroughly, and it will not prevent me from recognising him for my son though his statements differ from mine; but when you come to London yourself you will of course let me know more than I can know through a few lines in a letter. I will thank you to take all the informations you can about his marriage; and who his wife was, and whether she has brothers and sisters; also whether they have any fortune. All those informations I beg you to take before you sail." Then there occurs this postscript:—"I have also written to Mr. Turville to recommend my dear son to him. I remember Mr. Turville very well. I think the photography very like Roger, at least to what he was when he was 20, always adding 13 years to it; for instance he used to be very slim and was very thin; now he has grown stouter a good deal than he was before he went away." Then, in answer to Mr. Gibbes' suggestion, that she had never said anything about the Brighton card case, she says:—"I have not mentioned it to anybody, and I do not mean to *say anything about* Brighton, as I think it might perhaps turn people against him, but when you come, we will talk that business over, and you had better not say a word about it to anybody, and you had better *tell him* not to mention it to anybody." Now you will not fail to perceive that that language is strikingly ambiguous. She neither admits the fact as stated by the defendant in his letter, that he had been involved in some card case at Brighton, nor does she deny it. "We had better say nothing about it, because it might turn people against him." Why should that be? If he had been swindled out of his money at Brighton, it might have shown very considerable folly on his part in allowing himself to be made the dupe of a swindling transaction, but how could it turn people against him in respect of his being Roger Tichborne, as he was asserting himself to be? If the fact was true that Roger had been involved in a card swindling transaction, and that fact had been known to her, and known to other people, it would be a striking proof of his identity that he should have known it, a proof certainly

well worth purchasing at the risk of reflections which might be made on his folly in having been mixed up in such a transaction. But may she not have had another meaning, which is this—this is one of the dreams which the confusion of his brain has engendered, and the statement of his having been mixed up in a card case at Brighton not being founded in fact, it may produce an impression adverse to him as being a statement made by a man who can know nothing about what happened to Roger? The thing is capable of that interpretation; what its true interpretation ought to be must, as it strikes me, very much depend upon whether there was any reality in this suggested participation of Roger in a card swindling case at Brighton, or whether there was not. If it should turn out by-and-by to be, on the facts of the case, clearly and unmistakably a pure delusion, what are we to say of the judgment of this lady, who having that submitted to her as a test of the identity of her son, puts it on one side, will not look at it, and does not deal with it, as it ought to be dealt with, as a proof that the man who put that forward could not be her son? It will be necessary by-and-by to go into the Brighton card case, and to look at all the circumstances of it, in order that you may be able to form a judgment for yourselves as to whether there is any reality in the statement of the defendant, that he was mixed up in such a transaction or not.

Gentlemen, I mentioned, as one of the remarkable circumstances connected with this part of the history, the meeting of the defendant and Bogle. A great deal has been said about Bogle, and there is no doubt that, if the recognition of the defendant by Bogle was honest, it is a thing that makes very much in favour of his case; and we must therefore consider dispassionately the circumstances under which Bogle met the defendant, and recognised him as the nephew of his former master, and attached himself to him. Bogle, as we know, was living at Sydney; he had gone from this country and established himself there: having married, as a second wife, the schoolmistress at Tichborne, he went out and settled at Sydney. Sir Edward had promised to leave him an annuity in consideration of his long and faithful services, but had not carried out his intention, and Lady Doughty, knowing what his feelings were, had acted as though Sir Edward by his will, or some codicil, had made this provision for his old servant, and she had paid him an annuity of 50*l.* a year, and he was now living at Sydney. His wife was dead, but his two sons by his first marriage, James and Andrew, were also settled at Sydney, and the young lad, the son by the second marriage, who has been here the whole of this trial, was living with him; so that he was surrounded by his family. Bogle hears, no doubt to his infinite astonishment, that the long-lost Roger has been discovered, that he is about to come forward to resume his property and station, and that

he is going to England for that purpose and is actually at that moment at Sydney. It was quite natural that he should feel the deepest interest in this matter, and entertain the most ardent desire to see his young master again. He learns from a friend not only that Roger is at Sydney, but that he is staying at the Metropolitan Hotel. Having heard this in the evening, the first thing he does the next day is, of course, to go to the Metropolitan Hotel to see the supposed Sir Roger. The defendant is out. Bogle sits down quietly in the courtyard of the hotel to await his return. After a time he sees the defendant come out from the billiard-room, which is attached to the hotel, as I understand, and cross the yard of the hotel. As the defendant passes him he looks at him, and then says, "Hollo, Bogle! is that you?" Bogle answers, "Yes; is that you, sir?" "Yes: I will see you presently," says the defendant, and walks up-stairs, being at that time accompanied by another gentleman. A short time afterwards Bogle is summoned to his presence, and on looking at him Bogle says, "I came here to see Sir Roger; you are not he." "Yes, I am; I have grown very stout; you may not know me, but I am Sir Roger." Thereupon, according to Bogle, a conversation took place, in which the defendant exhibited so many recollections of Tichborne, that it would have satisfied him if he had not recognized him at the first moment; but he says he recognized him as he walked across the courtyard and smiled at him, which led the defendant to say, or partly contributed to his saying, "Hollo, Bogle! is that you?"—although in saying this he rather departs from what he had before said, namely, that the first thing he said when he went up-stairs was, "I came to see Sir Roger; you are not he." He says that a good deal of conversation took place between them which led him to believe the defendant was Roger Tichborne—that the defendant asked him questions: whether he was at Tichborne when his father came there, and why he left, to which Bogle says he answered that it was in consequence of the steward telling him that an alteration was about to be made in the establishment, and that he, Bogle, had better retire from the service, which induced him so to do. Whereupon he says the defendant said "you mean Gosford," in which statement I think it will turn out that Bogle is hardly to be relied upon. Then he says the defendant asked him after his wife and his two sons, mentioning the two sons, James and Andrew, by name, which of course would be very strong to show that the defendant recollected the sons Bogle had before he left England, and which therefore might well be a recollection of Roger Tichborne. Then he says the defendant inquired after several of the old inhabitants of the neighbourhood of Tichborne. He asked after the Godwins, and said the elder Godwin was a stingy old fellow, who never allowed his two sons half-a-crown to spend. Bogle says he had forgotten that Godwin

had two sons until it was recalled to him by the defendant. Then he made inquiries after the old nurse of Sir James, an old woman who died at the advanced age of ninety, and who had lived in the time of the first French Revolution, and remembered many of the things connected with it; and he inquired about the Guys, and about Etheridge. He asked Bogle if he remembered going out shooting with Brand, the gamekeeper, and several other things connected with Tichborne, which would naturally lead Bogle to the conclusion that this was Sir Roger, and accordingly he adopts him, and has not the slightest doubt that he is Sir Roger. With regard to his inquiring about his wife and two sons, my Brother Lush reminds me, and it is a fact that should be brought to your attention, that Bogle was struck with the circumstance of the defendant knowing anything about his wife. For, the first wife of Bogle had died before Roger had come from France, and the second, the school-mistress at Tichborne, he did not marry until after Roger had left; so it certainly was a striking fact that Roger should know anything about the wife, though if he was Roger, he might very well know of the two sons, because Roger knew them as boys when he was at Upton and Tichborne.

Now, the first question that presents itself is whether Bogle was honest in his recognition of the defendant, and in attaching himself to him as the true and, to his mind, the undoubted Roger. A great many remarks have been made on Bogle, and it has been said—I do not know whether in the course of this trial, it certainly was said or suggested at the last—that assuming the defendant to be an impostor, Bogle was a co-conspirator; that Bogle had embarked his fortunes with those of the defendant in the hope of getting some large reward for acknowledging him as Roger, and assisting him to assert his claim as such. I do not believe in anything of the kind, and I scarcely think you will. We saw the old man here, and certainly a better specimen of the negro race I would not wish to see. He was from a boy of eleven or twelve in the service of Sir Edward Doughty, and remained in Sir Edward's service till his death. Sir Edward, when he went to the West Indies on some business he had there, I think, in Jamaica, found this boy and took him into his service, and Bogle never quitted Sir Edward until he breathed his last; and throughout the whole of that time he maintained, beyond all question, a character for respectability, honesty, and attachment to his master; and I cannot believe that a man who maintained for so many years so high and unspotted a character, would have lent himself to what he believed to be a scandalous and iniquitous fraud; and the circumstances, even supposing hypothetically, for the purpose of argument, that the defendant's claim is not an honest one, might have led Bogle to think, notwithstanding the difficulties which since have arisen, that the man

he was then in communication with was Roger. He knew very well that Lady Tichborne always entertained the belief that her son was alive; he hears that that son had been discovered; and he knows that the person who calls himself Sir Roger is in Sydney. He naturally goes in search of him, and he is sitting waiting the arrival of the person whom he wants to see. A man suddenly says to him, "Hollo, Bogle! is that you?" and then tells him he is Sir Roger. There was nothing to lead Bogle's mind to the idea of an impostor. Indeed, there is something so startling in the idea that a man should have the audacity to come forward and prefer a claim of this kind, when he is not the true man, that the first impulse in everybody's mind is to say he must be the true man; he would not dare to brave the consequences if he were not. It is some such feeling which in all former attempts at personation has always enlisted the popular feeling on the side of the impostor. I daresay it never occurred to Bogle's mind that there could be an attempt of this kind, or that there was an imposture on foot at all.—"Hollo, Bogle! is that you? I am Sir Roger. I have grown so stout, that you may not know me again, but here I am." And then he talks to him about various things connected with bygone days, with Tichborne and Hampshire. The man naturally believes that it is Sir Roger with whom he is holding conversation; but it may be said, "Ay, but how should the defendant have known Bogle, if he were not Sir Roger?" Well, I do not think there is much difficulty in accounting for that, and for this reason. The defendant knew perfectly well that Bogle was at Sydney, although I regret to say that on his cross-examination he swore he did not. That I must call your attention to hereafter. He knew that Bogle was at Sydney; he showed Bogle the letter from Lady Tichborne, and told him that he had been informed by her that he was there; and, moreover, in a letter to Lady Tichborne, he says, "You said that Bogle was at Sydney, I have looked for him and cannot find him." And he told Bogle if he had not seen him that day, he meant to advertise for him in the papers. He therefore knew perfectly well that Bogle was at Sydney, and he must have been able to form a pretty shrewd guess as to Bogle's age, because he knew from Lady Tichborne's letter that Bogle had been valet to Sir Edward Doughty for some years, and had been allowed an annuity which would be only the result of some years' service. He must have known, therefore, that he was an elderly man, and, as Lady Tichborne said, was a black. He sees a negro of a certain age, sitting in the courtyard of the hotel, evidently on the look-out. It would not require any great stretch of thought to bring it to the mind of the defendant that that must be Bogle. At all events, there would be no harm in firing the shot. Supposing the man to whom he addressed the exclamation, "Hollo, Bogle!" was not

Bogle, and should say he was not, he would only have to say, "I beg your pardon, I thought I recognised an old friend;" but if it turned out to be Bogle, down comes the bird, as Bogle would naturally say, "That must be Roger Tichborne, or how should he know I was Bogle." I therefore do not see any difficulty in the defendant recognising Bogle, and I see nothing very wonderful under the circumstances, in Bogle's being perfectly satisfied that this was Roger Tichborne. I believe that was so, and I hope you do. I must say, I conceived rather a liking for this man whom Mr. Hawkins calls "Old Bogle." I think Bogle is, as I said before, a very happy specimen of his race, and so far as we have as yet gone, I do not doubt the honesty of Bogle in this matter. But while I give Bogle unreserved credit for the honesty of his conviction of the identity of the defendant as Roger, it is a very different question as to the evidence which he has given with reference as to some of the matters he has spoken to. We must be careful how we place implicit credit and reliance on Bogle; he has committed his fortune, his fate almost, irretrievably to the issue of the defendant's claim. He has lost his 50*l.* a year. Lady Doughty was thoroughly persuaded of the dishonesty of the defendant's claim, and was led to think that Bogle must have been a party to it, and therefore cut off his annuity. I can hardly wonder at it. She has been blamed for it, but if one looks at the point of view from which she regarded the whole matter, we cannot be surprised that, being perfectly convinced the defendant was an impostor, she could hardly bring herself to believe that anybody who knew the real Roger could have honestly adopted the defendant; and therefore she concluded in her own mind that the part taken by Bogle in the affair was a dishonest one, and, the annuity being a voluntary one on her part, she, naturally enough, declined to continue that which was a mere matter of bounty to a person whom she considered as having rendered himself utterly unworthy of her regard. I own I regret very much that old Bogle has lost the annuity, the reward to which his long services to Sir Edward Doughty fully entitled him. I am afraid it would be impertinent on my part to express a hope that when all this is over the old man may still be considered with reference to past services, and not with reference to anything in which he may be thought to have gone too far, or to have done wrong in respect of this unhappy controversy. But we must be on our guard against receiving with implicit confidence all the statements which he makes; because, as I said just now, having given up his establishment in Australia, having come to this country, having lost his annuity, being now far advanced in years, and unable to resume service, he has embarked all his future hopes, prospects, and fortunes in the same vessel with the defendant, and if the defendant sinks, he must sink with him;

and therefore he is naturally under the influence of the strongest motives to do all that he can in favour of the defendant, and to advance the cause of the defendant both upon the former trial and upon this. Therefore, although I believe the man to be honest, and should be very sorry to think him otherwise, at the same time I must fairly confess that I think he is a witness the details of whose evidence require to be scrutinised with a somewhat vigilant criticism.

Now, in the statements which Bogle made here in his examination, there were one or two things which certainly would strike one as making very much in favour of the defendant, if they stood uncontradicted, or without the witness being shaken on cross-examination. One of them was—always supposing the defendant in the meanwhile not to have learnt that Mr. Gosford was the steward—that when Bogle told him the steward had recommended him to quit the service, the defendant immediately interposed and said, “Ah, you mean Gosford.” It is true that at that time the defendant had seen Guilfoyle, who may have spoken to him about the former steward, because Mr. Gosford had been in so prominent a position as steward, agent, and manager of those estates, that if any conversation took place between Guilfoyle and the defendant about former associations at Tichborne, Mr. Gosford’s name was sure to come up. That might account for it. And if it was a genuine recollection of the defendant it would tend very much to show that he must be Roger, though it should not be forgotten that on his first arrival at Sydney, the defendant had not known who was the agent at Tichborne. Then again, the statement about the two sons, James and Andrew, would tend to show he was Roger, unless Guilfoyle had in conversation said, “Bogle is living here in Sydney, and so are his two sons, James and Andrew; if you are Roger, you will remember them; they are both settled here.” At the same time it is possible Guilfoyle may not have said anything about them, in which case if the defendant did mention the two sons, James and Andrew, and Bogle is telling us the truth, it is a striking fact in his favour. Whether he is telling us the truth about that, it is for you to judge. It was his son Andrew who told Bogle the defendant was in Sydney, but he never saw the defendant or came at all into contact with him. There is another matter which I shall have to deal with, namely, the recognition by the defendant of Upton. Bogle would have led us to think, that when he produced the print of Upton, the defendant, as soon as he saw it, exclaimed, “Ah, there is old Upton.” Upon the former trial, however, he had told a different story; and upon cross-examination he was obliged to admit that he had done so, and it turned out that he had taken these pictures of Upton to the defendant, and, upon showing the picture of Upton to the defendant, he had said, “There is a likeness of Upton,” and

upon that the defendant said, "Oh yes, that is old Upton." Of course, that would make all the difference; if he had recognised the picture of Upton before Bogle mentioned the name, it would have been very striking indeed; but it turned out, upon pressure being put upon Bogle, and on his being reminded of what he had said on the former occasion, that he was constrained to admit that it was he, and not the defendant, who first mentioned Upton, and that the exclamation of the defendant was not made till after he had been told that the picture was a picture of Upton.

Another thing upon which Bogle was pressed, and upon which it was desirable to have a distinct understanding, was how it came to pass that he was induced to come to this country; whether it was at his own suggestion or that of the defendant; and he stated it both ways, but I think in the end it came to this, and this is the way the two statements may be reconciled: At the first interview with the defendant at the Metropolitan Hotel, the defendant tells him he is engaged, and desires him to come the next day, which Bogle does. Upon one of those occasions he tells him he is going to England, whereupon Bogle says, "Oh, Sir, there will be a good many glad to see you; I wish I was going with you." Says the defendant, "If you wish to go, I will take you. Come to me to-morrow, and it shall be arranged." He comes on the morrow, but the defendant then says, "I am afraid I shall not be able to take you; I shall not have money enough." But on a subsequent occasion he tells him he has arranged about funds, and will be able to take him. Then Bogle says, "I shall not be able to go without my youngest boy; pray take him too;" accordingly he agrees to take the two. Now what could be the motive of the defendant for bringing Bogle and the son over to England? His success here was uncertain; the having Bogle and his son on his hands would necessarily entail considerable expense—first, in bringing them over; secondly, in maintaining them here. Why should he bring them? In the second place, why should Bogle desire to come? All his associations were in Sydney. His wife was dead, but he had his three sons about him, two settled there in business, and the younger one living with him. He had his little business, and he had his annuity of 50*l.* a year. If he came to England, he would have no business; but it is true, he would still have his 50*l.* a year. The only explanation he offers is that people are more sociable in England, and he thought he should like to be here; he could live on his 50*l.* a year; and was glad of the opportunity of coming back to his old haunts and associations. That is his explanation, and it may be that that was the motive that was influencing him. But what could have been the motive which influenced the defendant? He not only brings Bogle over, but attaches him to his person, and puts his boy to school. That is one of the

things which we shall have to deal with by-and-bye, when we have to consider what were his surroundings, and who were the persons he had about him. The defendant might be able to use him for the purpose of advancing his claim. His taking on himself the expense of bringing a man over to this country who was past service, and then keeping him attached to him without any service whatever, certainly is a striking fact; but on this it is, I think, only fair to the defendant to make this observation. You might naturally say that bringing a man to England who had no prospect of bettering his condition here, and who was past service, and keeping him on his establishment when in point of fact he had no service for him to do, implies that he brought the man over in order to make use of him, and make him available to furnish him with information which he otherwise did not possess to enable him to enact the part of Roger? But it must be taken into account that the keeping the man in his establishment might very well have resulted from the fact of Lady Doughty having cut off his annuity. That having happened the man had nothing to fall back on in this country. The annuity having been cut off, he would have been left destitute in the streets, with his young boy in the same condition, unless the defendant had given him a helping hand. So I do not think we should attach undue importance to that fact, seeing that it followed, as it were, out of the natural course of things; but what I said I say again, that the fortune of Bogle is so essentially associated with that of the defendant, that I cannot help thinking, if there ever was a case in which a man would be apt to strain his conscience, without perhaps actually swearing to that which was positively false—if there ever was a case in which a man would go as far as it is possible for a man to go in saying what he could in favour of another, Bogle is in that position. That is all I wish to say with reference to the motives of Bogle. We shall see the important part he plays by-and-bye in the further development of the history of this case.

Let me now call your attention to what happened as following on the defendant meeting with Bogle. Bogle, having recognized the defendant, takes him the dark silhouette which was meant to be a likeness of Sir Edward Doughty, and also two leaves from the book which was produced here, consisting of some sheets of note paper, having at the top of each sheet the Doughty arms, and which had been bound up in a book, and given by Lady Doughty to Bogle, and no sooner had the defendant received these from Bogle, than he writes Mr. Cottee a remarkable note. “Metropolitan Hotel. pitts stt. Mr. Cotty. Dear Sir—I have great pleasure in writing to you to thank you for the trouble you have been put to on my account. My Uncle Valet is now living with me. He happen to have with him my Uncle likeness and likewise a portion of the Hermitage

Estate"—probably he meant portrait—"a portion of the Hermitage Estate. I intend to send you a copie of each. has soon as they are finished. I sail positively on the first of Sept by the panama route." Now in that note there are two things which were certainly untrue. In the first place, Bogle was not living with him; that we know from Bogle; but perhaps that may be explained if this letter was written, as it well may have been, after the defendant had made up his mind to bring Bogle to England. He may have considered him, by a stretch of language, as already attached to him, and therefore, in a certain sense, living with him; but the other part is unmistakably neither more nor less than a deliberate falsehood, for Bogle had no likeness of the Hermitage estate, that being a creature entirely of the defendant's imagination, unless it had reference to that farm in Hampshire, which certainly is not what he meant by the Hermitage estate, which he represented to be in Dorsetshire. But Bogle has told us he had no likeness of the Hermitage estate; in point of fact Bogle had never heard of such an estate, and knew nothing whatever of it. Therefore that assertion, which I suppose was intended to have the effect of inducing Mr. Cottee and Mr. Gibbes to believe in the statement which he had formerly made about the Hermitage estate, was clearly and unmistakably untrue. But it does not stop there. Having got a leaf of the book, he writes again to Mr. Cottee in these terms: "This leave is taken from a book which my uncle Valet brought from Tichborne with him"—That no doubt was true; that is to say, if the person he was referring to was his uncle—"It bear the Doughty and Tichborne crest. His name is Bogle and is now living with me." Then comes the part I wish to call your attention to. "He likewise has two wood cut of Upton a seat my Uncle bought in Dorsetshire and likewise my uncle likeness. I have them in my possession now to get them copied Has you have a doubht of my idenity I will send you a copie of my uncle likeness, when you see one you will see the other I mean myself." Now, in that note there is an error which it is difficult to conceive that Roger Tichborne could possibly have made. "He likewise has two wood cut of Upton a seat my Uncle bought in Dorsetshire." The uncle, of course, is Sir Edward Doughty, and it is perfectly certain that Upton never was bought by Sir Edward Doughty, and it seems to be equally certain that that was a fact which must have been known to Roger; and I say so, because we know that Roger's persistent refusal to consent to a sale of Upton became a source of contest and unpleasantness—on more than one occasion it amounted to that—between Roger and his uncle and his father. But the only reason why Roger was able to prevent the sale of Upton was that Upton was included in the Doughty property which had come under the will of Miss Doughty, and had been included in the settlement of 1850. If the seat in Dorsetshire had been bought by Sir

Edward Doughty, it would have been at once at Sir Edward's disposal. Sir Edward Doughty could have sold it if it had been his; it would not have been included in the settlement; and the consent of Roger to the sale would therefore have been wholly unnecessary. Sir Edward could have disposed of that which he had bought, just as anybody else can dispose of that which has become his own by purchase; and inasmuch as Roger knew that his consent was necessary to the sale of Upton, he must have known that it was not purchased by his uncle, but was a property which had come under the will of Miss Doughty. How the defendant came to make the mistake is obvious. Bogle believed, and no doubt told him, that this was a seat which his former master, Sir Edward Doughty, had bought. Bogle is asked, on cross-examination, about the Doughty property, and he says it had come from a relation, who had left it to his former master, Mr. Tichborne, who afterwards became Sir Edward Doughty, and that her name was Elizabeth Doughty, and she left it him by will. He is asked: "Was Upton House, according to your notion, a part of the property or not?" He answers, "Sir Edward Doughty bought that. Q. He bought that; whom did he buy it of?—A Mr. Sprier. Q. Do you recollect when he bought that?—I do not. Q. You know he bought it from a Mr. Sprier; do you recollect what quantity of land there was about Upton House when he bought it?—Not a great deal. Q. Had Sir Edward got it when he first went to live there? When he first went to Upton, had he bought the house, or did he rent it of Mr. Sprier?—Of course, he bought it; he could not live there unless it was bought. Q. He might have hired it?—He never hired it; he did not hire it, he bought it."

Well the way in which Bogle fell into that mistake—for we know it was a mistake—was this: the property was not part of the property actually left by Miss Doughty, but property bought by the trustees under her will out of personalty which was directed to be applied to the purchase of real estate, to go to the same uses as those which had been directed by her will, and it was bought by those trustees—and the way Bogle fell into the mistake was the most natural in the world. There was not much land attached to the house at Upton. The property immediately adjoining was in the market for sale, and Sir Edward Doughty bought it for 13,700*l.*, and mortgaged it in order to pay the price, and the mortgage remained up to the time of the settlement of 1850; and it was part of the arrangement carried into execution under that settlement that Sir Edward was relieved from the mortgage, which became payable out of the money which was to be raised upon the Doughty estates to pay off the incumbrances on Tichborne and this mortgage; but Bogle, who was aware that his master had bought property at Upton, was not aware of the acquisition of the property of the Upton estate

as distinguished from the adjacent estate bought by Sir Edward, and knowing that Sir Edward had taken possession of the two at the same time, he naturally confounded the two in supposing that his master bought Upton, whereas he did not, but only land adjoining, which was added to Upton. Having made that mistake when he presented the picture to the defendant, he, no doubt, said, "Here is a picture of Upton, the place your uncle bought in Dorsetshire;" and accordingly the defendant sits down and writes to Mr. Cottee:—"Here is a picture Bogle has got of Upton in Dorsetshire bought by my uncle." The thing had passed from the mind of Bogle in the most natural way in the world to the mind of the defendant, and so there comes a statement from him which, to anybody who knows anything about the Doughty property and the way in which the different parts of that property had been acquired, must appear impossible to have been the recollection and knowledge of Roger Tichborne.

Gentlemen, we have now come to the end of the Australian case. Let us see whether we can state the account fairly as between knowledge and want of knowledge thus far exhibited on the part of the defendant, and strike the balance. Of what has he shown knowledge? of what has he shown ignorance? He knew that Roger was the son of Sir James Tichborne, afterwards Sir James Doughty Tichborne. That, however, he would know from the advertisements in the Australian papers; therefore, we must eliminate that. He also knew—at what precise time I will not take upon myself to say—that he had a brother and two sisters—sisters who were born in France. He also knew—whether it was before that letter which was supposed to have led to the watering in the eyes, which, as Mr. Hawkins afterwards elicited, might have been the result of washing himself with soap and water—an operation which he was carrying on at the same time—I do not know—but he knew there was a second son, a brother. And, according to Mr. Gibbes, he knew the date of his own birth, because he stated it correctly, both as regards the day of the month and the year. But, on the other hand, he did not know where he himself was born, and he did not know where his brother was born. He stated that they had both been born in England, himself in Dorsetshire, whereas they had both been born, as the daughters were, in Paris. He stated that his mother went immediately after his birth to Cherbourg, which she certainly did not. He stated that he lived in Paris until eleven or twelve years of age, whereas in point of fact he stayed there until he was between sixteen and seventeen. He stated, with reference to his education, that he had been educated, or partially educated, by a Jesuit, or by a Christian Brother—take the latter, as Mr. Gibbes is inclined to think that what the defendant represented was that the preceptor was a Christian

Brother—but as regards the rest of his education, he said it was at the High School of Southampton, whereas Roger never was at any such school for a single hour; and then he says, what could not have been the case with Roger, that his education had been interfered with by a malady called St. Vitus's Dance, which unquestionably Roger never had, or anything approaching to it. Then he says that the family of Tichborne was a Roman Catholic family, which was true, but, unfortunately, with that he connects a statement of their having paid 3*s.* in the pound to the Roman Catholic Church, which we may very safely assume they never did pay. With regard to his education, he makes the further grievous mistake that he not only makes no allusion to Stonyhurst, and knows nothing whatever of that portion of Roger's life, but he denies ever having been there. With regard to another portion of Roger's life, his being in the army, he wholly ignores that, and when the mother's statement is repeated to him about Roger having been at Stonyhurst, and having been an officer in the army, he positively denies both, and asserts that he never was at Stonyhurst, and substitutes for three years' service in the army as an officer a thirteen days' service as a private in a regiment which had, and could have, no existence whatsoever. With regard to the property, he in the first place represents that the estate, which was entailed, would, at his death, go to a cousin, ignoring the fact that he had a brother who, if alive, would himself, and the heirs of his body after him, necessarily intervene between Roger and the cousin, and he applies that statement to the property generally, without distinguishing between the property which the cousin would inherit and the large mass of the Doughty property which the cousin would undoubtedly not inherit. And then, when he comes to deal with his property by will, he speaks, as in conversation with Mr. Gibbes he had spoken, of estates which had no existence at all except in his imagination. Nothing can be more striking than the property affected to be disposed of in the Wagga-Wagga will. As I pointed out to you yesterday, it had no existence in point of reality, or at all events had never been in the possession of the Tichbornes for years. All this is matter deserving of the most serious consideration. Still more striking is the fact that in making that will he inserts, as executor and guardian, the names of persons whom Roger never knew or could have known; and when he came to deal with one of the most important facts in Roger's life, namely, the ship in which, and the time at which, he sailed from Europe, he fails to show any knowledge of those circumstances as they really existed with reference to Roger, and inserts a ship and a time of sailing appertaining to another and totally different person. All these are facts which have to be put in the adverse scale, as against the knowledge exhibited on the other side of the account. Then there is the fact against him, which is perhaps a still more striking

circumstance than any of those I have mentioned, his ignorance of his mother's Christian names. On the other side, there is the fact of his manifesting to Bogle certain knowledge which it is also material to consider. He has got hold of certain recollections of Tichborne, and we do not know that those were derived from any source but his own memory. He asks Bogle after his sons, mentioning them by name. That, however, must be taken with this, that he also asks after Bogle's wife whom he had never known, and whose marriage with Bogle had taken place after he went away, and which therefore he could not have been acquainted with, if he had not got it from some other source. He asks by name after different people connected with Tichborne. Amongst others he asks about Etheridge; he talks of Etheridge and the cats, and so on; but then, when he meets Etheridge at Alresford, according to Etheridge's account, he does not know him. These are things which we do not know that he got from any extraneous source, and if he did not, there is the striking fact of his having Tichborne recollections which Roger might very well have had. At the same time it is to be observed that at this time he had seen and conversed with Guilfoyle, the old Tichborne gardener. In such a conversation the reminiscences of Tichborne would naturally be the principal subject of talk, and whatever fell from Guilfoyle would be treasured up, and may have been reproduced in conversation with Bogle. Guilfoyle ought to have been a witness on this trial. Why, in a Government prosecution, so important a witness should have been left out I am at a loss to understand. All these things have to be taken into account one way or the other. There are exhibitions of knowledge and there are exhibitions of ignorance; and the question is, which of the two predominate. Whenever you find ignorance, and that ignorance cannot be explained, as was here attempted in respect of the Wagga-Wagga will, on the assumption of an intention to mislead and therefore of an intention to misstate—where no such explanatory motive can be alleged, then ignorance is certainly far more striking than knowledge, if it relates to that which a man could not in the ordinary course of things have forgotten; because knowledge may be acquired from without—it cannot be acquired from within; it may be lost by a failure of memory, but unless you can ascribe it to a failure of memory, ignorance is far more striking than the exhibition of knowledge for the reason I have just stated. Now the things as to which the defendant exhibited knowledge in Australia may by possibility have become known to him from some source or other which we are either unacquainted with, or which we can only guess at, but as this is speculation only, we should not be in a hurry to assume that the knowledge must have been thus acquired. It is only where the ignorance so preponderates over the knowledge that the latter cannot

be genuine, that we should be justified in inferring that the knowledge is factitious, and has been obtained from external sources. There are before you instances of ignorance with regard to the property, with regard to his education, with regard to his past career, besides mis-statements as to things which he represented as having happened to himself, such as his having had St. Vitus's dance, his having enlisted and having been bought off by his father, which certainly are very striking, and which you may think of a conclusive character; but the matter is entirely in your hands, and you must exercise your own judgment upon it. I have said all that it occurs to me to say on the subject of the Australian life, and I shall now pass on to the further chapters in the history of this case.

A JUROR: Might I ask whether it appears that Guilfoyle was ever employed at Tichborne as well as Upton?

THE LORD CHIEF JUSTICE: He was gardener at Tichborne, I think. If any of the counsel in the case will be kind enough to inform us.

MR. HAWKINS: He was at Tichborne, my Lord.

THE LORD CHIEF JUSTICE: Gentlemen, on the 6th of September, the defendant left Sydney for Panama on board the 'Rachiaia,' and there were two persons called before you as witnesses who were passengers in that ship, Mr. Hodson and Captain Vine Hall, both of whom were struck with the defects of education displayed by the defendant, defects which certainly form a very important element in this inquiry. Unless twelve years' residence in Australia, and the sort of life which the defendant lived there, and the persons with whom he was brought into contact, and was in immediate intercourse with there, can have so destroyed the effect of former education as to account for such a change from what Roger must have been, as the defendant at that time exhibited, it is impossible to say that the two persons can have been one and the same. That is a matter you have to judge of, but I am quite sure I do the defendant no injustice when I say that, if, at an interval of as many months as there were years between the disappearance of Roger and the appearance of the defendant as Roger, the defendant had exhibited the defects of education apparent in him, it would have been impossible to say that the man who presented himself in the year 1867 could be Roger Tichborne—that is quite certain. The man who wrote the letters from South America, who sent that extract from his journal to Lady Doughty from South America, could not by possibility be supposed to be truly represented by the man who, in 1866, wrote the letters to Lady Tichborne, and to the various persons with whom he corresponded, and which have been produced before you. Unless you

can account for the difference by the utter undoing, through the life led in Australia, of all that Roger had previously acquired, the inference is irresistible.

In this vessel, the 'Rachaia,' the passengers got up some theatricals, and after the theatricals an address was to be read to the captain of the 'Rachaia,' on the part of the passengers, thanking him for his attention, and so forth, on the voyage. This address having been drawn up by Mr. Hodson, the defendant, as the man of the highest rank present, was requested to read it, and, according to the evidence of that gentleman, his attempt to read it was a signal failure, a complete breakdown; he could not get over the words. And, according to Mr. Hodson, he exhibited both then, and in his conversation, the most striking marks of a defective education, and he showed, what his letters also show, a signal instance of the abuse of that much ill-used letter, the letter "h"—not but what I have known men of education and great attainments who have had that same defect, but then Roger had it not. No one has said that Roger put the "h" in the wrong place, or omitted it when required. According to the account of those witnesses the defendant did so; and certainly that failing is exhibited in his letters, and, if we may take the letters as showing what he would do in conversation he must have done so in speaking; he omits the "h" in numerous instances where it ought to be used, and then he does what so many people do, he compensates that much injured letter by using it abundantly in many places where it has no business to appear; and that struck those gentlemen very much, and they were both impressed with the belief that he could not be a man who had had the education which Roger ought to have had, and must have had; so much so that, as Mr. Hodson tells us, he made the observation to him, and the defendant accounted for it by saying that he had had St. Vitus's dance, which interfered with his being properly taught when a boy.

Gentlemen, he came to Panama, and there he stayed for some time. The French steamer, which was the one he tells us he intended to come home by, in order to go straight to France, was from some cause delayed, and the consequence was that he was kept at Panama. We were told by Mr. Hodson that during that stay at Panama the defendant was remarkable for being the only person amongst them who was able to speak Spanish; and that is a striking circumstance, because, so far as we are aware, Roger did not speak Spanish; he spoke French, as we know, to the last, as the language of his preference. The defendant—and this is one of the remarkable things in this case—told Mr. Gibbes he could not speak French at all, but he spoke Spanish to him, as he did when at Panama. That is one of the circumstances you will have to bear in mind hereafter when we come to another and different part of the case. He stayed

some time at Panama, and then went to New York. He took his passage thence to London in the 'Cella,' and he arrived in London in the 'Cella' on the 25th of December, 1866, at about three o'clock in the afternoon.

We now start with a new era altogether in the history of the defendant's case. On Christmas Day, 1866, he set foot on English soil, very nearly fourteen years since Roger Tichborne left it. He landed at the docks in the afternoon of that day. As he was coming up the river, a circumstance occurred to which your attention should be directed. You recollect, in the history of Arthur Orton, that old Orton and his son Thomas dealt in Shetland ponies. Those Shetland ponies used to come to London in the Dundee steamers, and Arthur Orton, when he was assisting his brother Thomas with those Shetland ponies, which he appears to have done to a great extent, would no doubt have to go to the Dundee Wharf, and receive the ponies, and bring them to the stables. He would, of course, thus become acquainted with the people belonging to those Dundee vessels, and naturally enough, would become acquainted with anybody who usually officiated as pilot to these boats. Now there was a man named Ferguson who used to be the pilot of the Dundee boats, and who used always to look out for them in the river, to bring them up the river to the docks; and if we can believe the evidence of the man named Bromley, who, on the occasion when the defendant was on board, piloted the 'Cella' up the river, this striking conversation took place between him and the defendant. The defendant goes to him on the bridge, and inquires after a pilot of the name of Ferguson, and the pilot says, "Ferguson? there are two or three Fergusons; which of them do you mean?" Presently the defendant comes again, and says,—“I will tell you which Ferguson I mean—the man who used to be pilot of the Dundee boats.”—“Yes,” says Bromley, “I know him; he was John Ferguson.”—“Yes, that is the man.” If you believe Bromley, that certainly is a striking fact. The counsel for the defendant asks you to disbelieve him, saying the story is incredible. You will exercise your own judgment upon it. You may perhaps think it more improbable that Bromley should have invented such a story than that the conversation should have occurred. If there was a man of the name of John Ferguson, who was pilot of the Dundee boats, which most undoubtedly there was, there would be nothing extraordinary in a person who had known him inquiring about him. I quite agree it would be most extraordinary that a person who had not known him should come and ask after him. So much for the matter of John Ferguson. It is not so important with reference to the Castro and Roger Tichborne case as it is important to the Arthur Orton case, because it is knowledge you would expect in Arthur Orton as quite natural; but it is im-

portant in one respect with reference to Roger Tichborne, because one cannot help asking oneself the question—how could Roger have known about John Ferguson, the pilot of the Dundee boats?

Bogle gives us here a piece of evidence which is not immaterial. He says that as they were coming up the river, young Butts, the secretary, whom the defendant had also brought over to this country—no one knows why—came, as from the defendant, and said, “Bogle, what hotel had we better go to?”—“Oh,” says Bogle, “we had better go to Ford’s Hotel, Manchester Square; that is where the family always went.” Young Butts takes the message back, and when they arrive at the wharf a cab is called, and the defendant and his wife and child and nurse get into the cab and go away to Ford’s Hotel, Bogle and young Butts being left behind with directions to follow the defendant to Ford’s with the luggage. You have heard that the reason he gave on his examination for going to Ford’s Hotel was that that was the hotel which his father and uncle had been in the habit of using. I have no doubt it is true that members of the family used to go to Ford’s, and that Bogle recommended that hotel on that account; but the defendant said it as though it had been a matter of his own knowledge, and as if he had spontaneously selected that hotel because his father and uncle had been in the habit of staying at it, whereas we now find that he did not know what hotel to go to, and went to Ford’s because Bogle said it was where the family went, a thing which Roger would probably have known. However, they go to that hotel, and must have arrived there, I should suppose, about five or six o’clock. Well, the first thing to be done on arrival, of course, would be to order dinner, that essential necessary of human life, which we cannot get on without. Whatever other object we may have in view, whatever the circumstances in which we are placed, if we have a dinner to eat, we must dine. Accordingly, the defendant dines. It is Christmas Day, and he has arrived after a long voyage, glad, one would think, to be relieved from the tossing of the waves, and to find himself at a comfortable hotel, in a nice snug room, with a cheerful fire, good repast, and glass of wine. You would naturally expect that under such circumstances a man would be very glad to find himself by the fireside chatting with his wife, and enjoying himself, and that he would have put off any matter of business till the ensuing day. But to our surprise, we learn, that on that same evening, a cold December evening, the defendant sends for one of those lumbering vehicles which are a disgrace to a civilised country, a four-wheeled cab. I say so without hesitation, because I have been in many cities, and there is not a city where you will find so inconvenient and detestable a vehicle as your four-wheeled cab—cold, comfortless, noisy, rattling, having but one recommendation, that of travelling tolerably fast. Away goes

the defendant in this four-wheeled cab to the remote district of London called Wapping, and then a scene takes place which has been described to us, and which, if truly described, is certainly of a very remarkable character. He arrives between eight and nine o'clock at the 'Globe' public-house, situated at the corner of the High Street, Wapping and a street called Globe Street—a house kept by a woman of the name of Jackson. He is dressed in a rough pea jacket, with a muffler round his throat and a peaked cap on his head; and it was attempted to be represented—I do not think quite fairly—that this was a dress he had adopted for the purpose of disguise. I think it may very fairly be ascribed to the particular season of the year, and the hour of the day, when a man would wrap himself up—a very proper precaution in this ungenial climate of ours at that time of the year. He arrives, and looks in; there is no one there except Mrs. Jackson and her mother, a Mrs. Fairhead, who formerly kept the house herself. She had gone that day to spend the evening with her daughter at the 'Globe.' The two women were there alone. In walks a stout, burly stranger, muffled up in the way I have described, and asks for a cigar and a glass of sherry. Then he begins to talk, and, in the course of conversation, says, "What has become of the Ortons, who used to live here in the High Street? I have been at the house knocking there for some time, trying to get in, and there seems to be no one there."—"Oh, no," says Mrs. Fairhead, "they are all gone. Old Mr. Orton is dead, and so is Mrs. Orton. Mrs. Orton died some years ago, and Mr. Orton died some thirteen months ago." Then he says, "Where is Mary Ann Orton?"—"Oh, Mary Ann married a Mr. Tredgett, but Mr. Tredgett died a few months after their marriage, and she is now a widow, and is keeping a lodging-house in the East India Road somewhere." "Could you give me her address?"—"No, but it can easily be got. Her brother Charles has set up as a butcher here at the end of the street. You have nothing to do but to go to him, and he will give you the address in a moment." "No," says he, "I don't want to have anything to do with Charles. The only one I want is Mary Ann; if you can get me her address I shall be much obliged."—"Yes," says Mrs. Fairhead, "I think I can, for there is a servant who used to live with the Ortons, who is living with a daughter of mine, who keeps a public-house here in the neighbourhood, and I can get the address from her, no doubt." Meanwhile, while she is preparing to get the address, the conversation continues, and he says, "By-the-bye, who did you take this house of? was not it a Mrs. Mac—" "Macfarlane," puts in Mrs. Fairhead. "Yes, that is the name; I could not think of it." Then he inquires what had become of several of the people in the neighbourhood. First, he looks out of a glass door which opened into Globe Street,

and having looked across the street, he says, "What has become of the Cronins? Do they keep the shop over the way now?" "No," she says, "the old man died: the widow and the son kept the shop for some time, but they have left recently." Then he turns to her and says, "What about the Schottlers, who used to keep the house in the nook; do they still keep the house?"—"No," she says, "they have left." He was quite right as to that, the Schottlers did keep the house in the nook, that is, a retiring part of the street. Then he asks, "Does Gosheron still keep the house, 'the Old 42?'"—No, Gosheron was gone. Then he says, "What has become of John Warwick; does he still keep the butcher's shop?"—"No," says Mrs. Fairhead, "he is dead." "Poor John Warwick! he is dead, is he?"—It reminds me of the scene in Henry the Fourth. "And is old Double dead?"—"Is poor John Warwick dead? then who keeps the shop now?—A person of the name of East." "East," says the defendant, "I don't recollect the name of East."—"No," she says; "he married one of the sisters, the stout sister." "Ah," he says, "you mean Sophy"—and that was right, Sophy was the stout sister. Then he asks about the Wrights; and Mrs. Jackson says, "I cannot tell you anything about the Wrights." But Mrs. Fairhead says, "But I can. Young Wright went to sea, and never came back, and has never been heard of since." The conversation having reached this point, the defendant walks along the passage that led from the room where the two women were sitting to the parlour—there being no other customer in the house at the time—he walks along, looks round, there being gas in the passage and parlour, and then walks back and says, "Well, I declare this house has not altered a bit!"—showing that his recollection of it was of a former day. In the meantime Mrs. Fairhead has made her preparations to go and get the address; but she is very much struck by this conversation, and by the knowledge of Wapping manifested by the defendant. She was struck, too, by his likeness to old Mr. Orton, or at all events by what she fancied to be the likeness to old Mr. Orton, and she looks up at him and says, "Why, you must be the Orton who left some twelve or fourteen years ago, and has not been heard of since."—"No," he says, "I am not; but I am a friend who has come to assist the Orton family."—"Well," says she, "you are very like the family; you are very like the old gentleman." Then she makes an observation about his knowing the place, and she says, "You seem to know the Wapping people very well." "Yes," he says, "I was at Wapping some twelve or fourteen years ago." Now if you take 14 from 66 it will bring out 52, and 1852 was the time when Arthur Orton was last in Wapping. Mrs. Fairhead had in the meanwhile come to the end of this conversation, and was about to start to get the

address. She puts her apron up to cover her head as she is going out, and the defendant assists the old lady to tie the apron round her head, and she goes out, leaving him with Mrs. Jackson, and Mrs. Jackson gets into conversation with him. At the end of the conversation she too says, "I cannot help thinking you are one of the Ortons; you are so like the Ortons." Says he, "What makes you think I am like the Ortons?" "Well," she says, "you are like both the father and mother;" and then, as he had asked so many questions about Wapping, she, too, says, "Why, really, you know more about Wapping than I do. If you are not an Orton, you know the neighbourhood very well." And then he varies the date, according to her, and says he had been there, "sixteen years ago," which will take us back to 1850, and although that is not the precise date, still it was not far from it; we know that in 1851 Arthur Orton returned from South America. Well, Mrs. Fairhead comes back and brings the address of Mrs. Tredgett, which she had got from her daughter's house, and hands it to the defendant. We know from the defendant that he went that evening to Mrs. Tredgett's, but did not find her at home. Both the witnesses concur in saying that he was at the 'Globe' from three-quarters of an hour to an hour. The conversation took up that time, including the time that Mrs. Fairhead was gone to get the address, and they say he was there talking all this time, and smoking three cigars, with which they supplied him, and drinking his sherry. Such is the evidence of these witnesses, but it is right we should have the defendant's statement with regard to this.

Now he admits on cross-examination that he did go down to Wapping on this night, and that he went to the 'Globe' public-house and had a conversation there with a woman—but with one only—there being no second person there—with a woman who appeared to keep the house. He gives a totally different account of that conversation from that which the two witnesses have spoken to, and it is necessary that we should attend to what he says. "The house you went to was a public-house. Who was the first person who saw you? Did you learn that old Mr. Orton was dead? Did the woman whom you asked tell you so?—I do not remember whether she did or not. Q. Did you say you knew of the death of the old lady?—No; I certainly did not say that, because I did not know anything about it. Q. You did not say so?—No. Q. Mrs. Fairhead was the person I suggest you said that to?"—according to Mrs. Fairhead's evidence he did know, or appeared to know of the death of old Mrs. Orton, but did not know of the death of old Mr. Orton—"Mrs. Fairhead was the person I suggest you said that to?—I do not know what the name was. Q. Did she tell you that Mary Ann Orton had married a Mr. Tredgett, and that Mr. Tredgett had died within about nine

months of the marriage?—I believe she did say that. Q. While you were there, and this conversation was going on, did she mention the name of Charles Orton?—No. Q. And did you say ‘I do not want to see him?’—I did not. Q. That you swear?—I swear I never heard the name of Charles Orton mentioned. Q. You swear you never heard the name of Charles Orton mentioned, and that you did not say that you did not want to see him?—No.” Then he denies that any conversation took place about the Cronins, or Gosheron, or the Schottlers, or about Warwick, or about the Wrights, and denies having been told that he was an Orton. He is asked, “Did Mrs. Jackson say, ‘You are an Orton? You are like both the father and mother?’—She certainly did not. Q. Or anything to that effect?—Or anything to that effect; I do not remember seeing but the one female there. Q. Did you say in answer, ‘No, I am not. I am merely a friend of the Ortons; I have come from her brother to assist Mrs. Jury?’—I did not. Q. Do you recollect, did she say after you had been talking some time about these people, ‘Well, if you are not Orton, you seem to know Wapping pretty well, at any rate?’—She did not. Q. Did you say, ‘I have been away from Wapping about fifteen years?’—I did not say anything of the kind. Q. How long do you think you were there?—In the house? Q. Yes; you had some conversation with some person there?—From five to seven minutes. Q. Were you not there nearly an hour?—Certainly not. Q. Having a long conversation about Wapping and the people at Wapping?—I was not there more than seven minutes. Q. Now I have put to you what I suggest passed; tell me, in your way, what you say did pass?” Then he gives this account: “I went down to the house where I had an address”—that is to say, the Orton house—“it being shut up, I went into the first public-house that I could see, and inquired for the address of Miss Orton, and they gave me the address. I remained there, I suppose, from five to seven minutes. Q. What address did they give you?—They gave me some address; I do not know where it is now. Q. Wrote it down for you?—Wrote it down? Q. Yes. You wrote it down?—No, they wrote it down. Q. Miss Orton, was it?—Miss Mary Ann Orton. Q. They wrote it down?—Yes. Q. I do not want to catch you by saying ‘they;’ you mean the person you saw?—Yes. Q. Was there more than one person?—Only one person. Q. The person you saw wrote it down?—I do not know whether she wrote it herself; she gave it to me written. Q. And then you went away?—I went away; I went to the address that she gave me. Q. And that is the beginning and end of the matter—I mean of the matter in the public-house?—Yes. Q. That could hardly have taken even so long as you say? It was a very short business indeed?—Not a very long one; from five to seven minutes. Q. Did you have refreshment, or anything there?—I

believe I had a glass of something, I cannot say what. Q. You stayed to finish your glass, and then went away?— Just so.” So that there is a positive contradiction between these two witnesses and the defendant. He or they must have sworn falsely.

He denies all that part of the conversation which would imply, if it took place, this minute knowledge on his part of the personalities and localities of Wapping. He represents that he merely went in to inquire about the Orton house, which he had found shut, and asked for the address of Mary Ann Orton, and having got it, went away about his business, not staying above five or seven minutes. The learned counsel for the defendant boldly challenged your decision in favour of his client with reference to this certainly very important matter, on the ground that these witnesses had committed perjury, and had committed perjury because they had been bribed. They had been bribed; they had been tutored by Whicher to give evidence with reference to this conversation, when in point of fact the conversation never occurred. The old lady, Mrs. Fairhead, appeared to be very hurt and very indignant, and the daughter appeared to share the indignation of her mother at this suggestion of their being induced to give evidence by reason of their having received money. Whether that pain and indignation was real or simulated you had the opportunity of judging. They seemed to me to be two very respectable people of their class, so far as outward appearance went, and they gave their evidence in a way not calculated to excite one's distrust by the manner in which they gave it; but this is a matter which it is peculiarly the province of the jury to judge of. You must make up your minds whether you believe these witnesses to have been speaking the truth, or whether they came here with a concocted story, and committed perjury, as the defendant's counsel asserts. But suppose you believe these witnesses to be telling the truth. Suppose that the conversation to which they deposed took place between the defendant and them, and that he manifested this intimate acquaintance with persons in Wapping who, some fifteen or sixteen years ago, or whatever the period may have been, kept shops and establishments in the immediate locality of the old Orton house—what is the inference to be drawn from such an exhibition of knowledge, if in point of fact it took place? At present I am not dealing with the Arthur Orton case, upon which this evidence has, perhaps, a more immediate bearing; but in dealing with the Roger Tichborne case it has also a most important bearing, because one cannot help asking oneself the question, could Roger Tichborne possibly have been possessed of the information which is implied in all this inquiry about persons living formerly in that neighbourhood, and the knowledge of them thus strikingly exhibited? How could Roger Tichborne have known anything about the Cronins? How could he have known that

Gosheron kept the 'Old Forty-two'? How could he know that the Schottlers kept the house in the nook? How could he know Warwick, who kept the butcher's shop? how could he have known, when he was told it was now kept by East, who married the stout sister, that that stout sister's name was Sophy? It certainly is utterly inconsistent with anything connected with Roger, who, so far as we know, was never at Wapping at all—unless you accept the theory of the learned counsel, that in the intimate intercourse between Arthur Orton and Roger Tichborne in the bush in Australia, Arthur Orton had talked to him so much about the people living in Wapping, that the mind of Roger Tichborne had become so imbued with the knowledge of all these people as that he recollected them and thought of them as if he had himself once been familiar with them. There stands the fact, that we have a man representing himself as Roger Tichborne, and whose identity with Roger Tichborne is the subject-matter of this inquiry, exhibiting knowledge which, personally, Roger Tichborne never could by possibility have been possessed of.

Another thing also must not be lost sight of when we are dealing with the question as to whether Roger Tichborne would have gone down to Wapping and have shown all this knowledge. One cannot help asking oneself why should Roger Tichborne have gone to Wapping at all? What says the defendant about it? What did he go for? According to his account, it was because he wanted to make inquiry about the Ortons, partly because Arthur Orton had asked him to get information about his family, partly because he had promised Arthur Orton to assist them in case they should be in indigent circumstances and require pecuniary assistance. Well, what would you have expected a man to do under such circumstances? To start at night, go down to Wapping in the dark, and make inquiries about the Orton family on the first night of his arrival? Would it not have been abundantly sufficient to have gone there the next day. One must look at these things with the eye of reason and common sense. Suppose in some foreign country where you were settled, or where you had been travelling, you made an acquaintance which matured into warm friendship, and your friend when you were coming to England had said: "There are members of my family whom I have not heard of for years; I hardly know where to find them, but they formerly lived in such and such a part of London; I do not know what may be their condition; I wish when you get to England you would make inquiries about them: hunt them up, let me know what they are doing, and what are their circumstances; and if you find they are in want or distress, put your hand in your pocket and make them advances, which I shall be happy to repay you when we meet again; relieve them if they require it." What would you do? You arrive

at the docks, you take a cab, get away to an hotel at a distant part of the town, you dine, and are very comfortable, and it is a very cold evening. Do you not think the most zealous friend would wait till the morning? Would you not have said, it will be time enough to go about this benevolent commission to-morrow morning; this is the first night I am on shore; I will wait till I have had my breakfast in the morning, and read my newspaper, and then I will order a cab, and go to this place. Is not that what you would have expected from a person circumstanced as Roger Tichborne is supposed to have been circumstanced in this matter? Does not the going down to Wapping at such a time imply some more cogent motive—some more powerful and pressing motive than the mere desire to do a work of friendship or charity?

Let us see next how the defendant follows up what had happened that evening. The first thing the next morning, as soon as he has breakfasted, he starts and goes down to Wapping again, and goes to Mrs. Tredgett's address, where he admits he had been the night before. He does not find anybody at home; and he is found by a neighbour knocking at Mrs. Tredgett's door. Mrs. Tredgett had gone out holiday making at Christmas time, and she had not been at home the night before, and was not at home that morning. But the neighbour, a Mrs. Moore, knew a Mrs. Pardon, a sister of Mr. Tredgett, who had married Mary Ann Orton, and taking for granted that as she had been a sister of the deceased Tredgett she would know something about her sister-in-law Mrs. Tredgett, she sends her daughter with the defendant to Paignton Terrace, in the East India Road, where Mrs. Pardon lived. The defendant introduces himself by sending in a card on which was written "William H. Stephens, Australia," and on seeing Mrs. Pardon, he asks if she would answer him a few questions respecting the Orton family. He tells her he had called the night before at Mrs. Tredgett's, but had found the house closed, and could not get an answer. She, knowing the family, says, "Are you an Orton, you are so like old George Orton." "No," he says, "but I am a great friend of Arthur Orton, who is one of the wealthiest men in the colony, and I promised him to inquire after his sister Mary Ann, and if she needed any assistance to assist her." Then he gives some account of himself. Mrs. Pardon says he told her he was the editor or reporter of an Australian newspaper, and was about to go to Ireland to report the Fenian movement, a statement consistent with the address on the card which represented him as W. H. Stephens, of Australia. In the course of conversation he produces a locket containing a likeness of a lady and child, and tells her it is the likeness of Arthur Orton's wife and child. He ends by giving her a letter addressed to Miss Mary Ann Orton, 69, High Street, Wapping, which he represented as coming from Arthur

Orton, and which he requested Mrs. Pardon to forward to her. Mrs. Pardon was so impressed—it may have been a fancy, and I do not say at all that it ought to make strongly against the defendant—but she was so impressed with his likeness to the Orton family, that she puts it to him a second time whether he was not an Orton, and he denies it again, and then he goes away. In the afternoon Mrs. Tredgett, who had heard that somebody had been calling at her house, and that the person so calling had been taken to Mrs. Pardon's, calls, and opens the letter in the presence of Mrs. Pardon, and this is the letter: “Wagga-Wagga New South Wales June 3rd. /66. My Dear and Beloved Sister It many years now since i heard from any of you. I have never heard a word from any one I knew since 1854. But my friend Mr. Stephens is about starting for England. And he has promised to find you all out. and write and let me know all about you. I do not intend to say much because he can tell you all about me. Hoping my dear sister he will make him welcome has he is a dear friend of mine so good bye Arthur Orton.” Then there is that unmistakable Arthur Orton hieroglyph which is attached to the letters written by him to Miss Loader and to his sister in the years 1853 and 1854; so that whoever wrote that letter and wrote it as Arthur Orton must have been perfectly well acquainted with the hieroglyph that Arthur Orton used.

Now that that letter was written by the defendant there is internal and external evidence which leaves no room for the slightest doubt. It could not have been written from Australia, for this simple reason. Although it is dated from Wagga-Wagga, June 3rd, 1866, a time when, no doubt, the defendant would have been in Australia, yet it could not be written then for this simple and perfectly plain reason. He writes, “My friend Mr. Stephens is about starting for England,” and the card of Mr. Stephens is produced as though the defendant were the bearer of the letter from Arthur Orton, and was himself Stephens. Now the defendant, by his own admission, did not make the acquaintance of Stephens or obtain this card till he was on his passage from New York to England, when he fell in with Mr. Stephens, who was a passenger on board the same ship, and gave him this card; therefore it could not have been until after the defendant met Mr. Stephens as a fellow-passenger on board the ship—that is to say some time after he left Australia—that this letter could possibly have been written: besides which, we have become familiar with the handwriting of the defendant, and nobody who is acquainted with his writing and who looks at the letter can, I apprehend, entertain for a moment a doubt that it is in the same handwriting.

Let us now hear the account which the defendant gave of the transaction on his cross-examination. The card with “W. H. Stephens, Australia,” is handed to him, and it is acknowledged by

him, but not until very considerable pressure has been put upon him to obtain that acknowledgment. "Did you ever see that before?" asks the Solicitor-General, handing a card to the witness. "Just look at it. What is that?" Then the defendant reads, "That is 'Wm. H. Stephens,' and then there is 'Australia,' written I certainly cannot say by whom. Q. Just keep it in your hand: You cannot say whether you ever saw that before?—No: it looks very much like my writing, the 'Australia,' but still it is not, I think; I will not say it is not. Q. Eh?—It might be, but it certainly does not look like it; it looks similar, but I do not think it is mine. Q. Whose writing is the 'Wm. H. Stephens' in, do you know?—No, I do not: I should think it would be Stephens's. Q. Did you ever have anything to do with that card before? did you ever see it?—I do not remember. Q. You have no remembrance of seeing that card before?—No, I might have done so. Q. I know you might have done, but what I want to know is, do you remember that you did?—No, I do not remember at the present moment whether I did or not. Q. Did you receive that card from Mr. Stephens, or did you write it yourself?—Oh, it is not my writing. Q. That you are sure of?—Oh, of that I am positive. Q. Just look at the signature on those two letters, signed 'William Stephens.'—That is what I am speaking of. Q. That is what I am speaking of also; look at the signature of those two letters signed 'Wm. H. Stephens.' Is it anything like that?—I do not think it is. Q. Well, look—(After looking) No. Q. Does it look as if it had been imitated one from the other?—No, I do not think so; certainly not, good gracious me, no. Q. Did you yourself leave that card at Mrs. Pardon's?—I do not remember the name of Pardon." Then the question is put in another form. "Did not you yourself leave that card, 'Wm. H. Stephens, Australia,' at the house of the person to whom you were sent to inquire about the Ortons?—I believe I did leave a card. Q. 'Wm. H. Stephens?'—Yes. Q. 'Wm. H. Stephens, Australia?'—I do not know about the 'Australia' part of it. The LORD CHIEF JUSTICE: You say you have no reason to doubt that this is the card, but do you now adhere to your answer; are you uncertain about it, or do you wish to alter the answer?—It is simply this, that I do not remember leaving any card. Q. But just now you said it was not your writing?—Oh, certainly not, my Lord: I adhere to that. Q. You adhere to that, that is not your writing, and you believe it is the card you left?—No; part of it: the 'Australia' has a similarity to my writing, but I cannot say. Q. Your attention is called to it?—Speaking of the 'Wm. H. Stephens,' that certainly is not my writing. Q. What do you say about 'Australia'?—The other has a similarity to it, but I should not like to swear it is or is not. The LORD CHIEF JUSTICE: You are not asked to swear to handwriting, but as to your belief: your attention is called to this circumstance,

that, having left a card at the house where you say you called, you have no reason to doubt that is the card you left?—None whatever.

Q. And on the card there is in one writing ‘Wm. H. Stephens,’ and the other in what some people may think in a different writing; I express no opinion about it; but your attention having been called to the matter?—The only thing I can say is, it is very similar to mine.

Q. Look at it again?—Well, I did not believe it was, and that is what made me dispute it; yes, I believe it is in my handwriting.

MR. SERJT. BALLANTINE: The whole of it?—No, merely the ‘Australia.’ *THE LORD CHIEF JUSTICE:* If you look at it, it is a different handwriting: I did not express an opinion about it, but he says now it is his. *Q.* The word ‘Australia’ is your writing?—Yes.

THE SOLICITOR-GENERAL: Do you believe you left that card yourself at the house of the person to whom you were directed to inquire for the Ortons?—Very possibly I did. *Q.* When?—I do not know

when: yes, I can tell you when if you will stop a minute; it would be when I called there on the 26th of December. *Q.* On the 26th of December, 1866?—Yes. *Q.* The day after you landed?—Yes.

Q. Where did you call?—I do not know where the address was, I am sure. *Q.* But whereabouts?—It was somewhere not far from the Victoria Docks.” You thus see how long the defendant did

what a witness ought not to do, that is, fenced with the questions, when he must have known in his mind, beyond any possibility of doubt, that the “Australia” on the card was his own handwriting, and that the card was the one he actually left at Mrs. Pardon’s in order to pass himself off as W. H. Stephens, a reporter who had come over here to report on the Fenian movement.

He admits that he asked Mrs. Pardon for the address of Mary Ann Orton, but he denies that Mrs. Pardon taxed him with being an Orton. “Did she say, after talking with you for some time, ‘Why you are wonderfully like the Orton family; you must be Mrs. Tredgett’s brother?’—No, she certainly did not. *Q.* That you swear?—That I positively swear. *Q.* Now do you mean to swear that Mrs. Pardon did not tell you that you were an Orton, and were

the brother of Miss Mary Ann Orton, who had now become a Tredgett?—I most positively swear she did nothing of the kind. *Q.* Did not she say to you, after some little time, ‘Why you must be, you are so much like old Mr. George Orton.’ And did you say, ‘Oh, no, only a friend?’—I tell you there was no conversation passed on that matter whatever. *Q.* And did you say, ‘Only a friend, a

reporter for one of the Australian papers; and my mission is to go to Ireland and report upon the Fenians’; W. H. Stephens, you know, was a Fenian reporter?—Yes, I might have said that. *Q.* Who was W. H. Stephens? What made you take his name? What was he?—I cannot tell why; I merely wanted to find out what I wanted

to know, and have nothing more to do with them"—that passage is not unworthy of notice—"What made you take the name of W. H. Stephens?—I cannot tell you what made me: there was a person on board the ship of that name. Q. Was he a Fenian reporter?—I cannot tell you whether he was a Fenian reporter or a spy sent out by your side to watch me. Q. Where did you fall in with W. H. Stephens, a Fenian reporter, or a spy sent out by the defendants' side to watch you?—New York. Q. Sent out by the defendants' side to New York to watch you, and you came home with him, did you?—Yes; or rather he came home with me." Gentlemen, it is to be observed on this that nobody knew he was coming home from New York; therefore the supposition that they sent out W. H. Stephens to New York to act as a spy on him on the way home, when nobody knew he was coming home that way, is perfectly absurd. It is one of the suggestions so frequently thrown out in the course of this case about spies and detectives, and things of that sort. The cross-examination goes on: "I ask pardon; he came home with you: a Fenian reporter. How came you to take his name?—I cannot tell you—a matter of convenience, I think."

Then he is asked about the locket which Mrs. Pardon said he shewed to her, containing a photograph of a woman and child. The SOLICITOR-GENERAL: "Now attend to me, did you also show her a photograph of a woman and a baby, in a locket?—I have no remembrance of doing so. Q. Will you swear you did not?—Yes, I will swear I did not. Q. Had you got a photograph of a woman and a child in a gold locket, or a locket that looked like gold?—I had one in a locket, but I cannot say that I had it on then. Q. You cannot say that you had it on then?—No; I think not: in fact, I am positive I had not. Q. Had you got it about you, if not on?—No; I had not got it about me. Q. Was the photograph of the woman and child that you had in the locket, but had not about you, the photograph of your wife and child?—Yes; the photograph of my wife and child. Q. And will you swear you did not show to Mrs. Pardon, the person you went to obtain Mary Ann Orton's address from, the photograph of your wife and child as the photograph of the wife and child of Arthur Orton?—That I will swear I did not." Now, I do not think that, as touching the main subject of this inquiry, very much importance attaches to whether he showed a locket containing a representation of his wife and child; but it is important as affecting his credit, and so testing the value of his evidence. He may have thought that more importance attached to it than really does attach to it, and therefore thought proper to deny it. I am at a loss to see how, unless he did show Mrs. Pardon the locket containing the likeness of his wife and child, Mrs. Pardon should know he had such a locket, which he himself admits to have

been the case. Therefore I think the probability of truth is on her side rather than on his. The cross-examination is resumed. He is very much pressed as to what passed, and he is asked, "Did you say you had come from Australia, and you were commissioned by Miss Orton's brother to see her, and if she wanted it, to advance her money?"—Yes, I believe I did say that. *Q.* Did she say to you, 'Well, you are so like the Ortons, you must be an Orton.'—No, she did not: She told me Miss Orton owed her a lot of money; that is what she told me, naming the sum; but I forget what it was. *Q.* Did she say you were very like the Ortons, and must be her brother?—She did not. *Q.* Nothing like that at all?—Nothing like that. *Q.* The other, certainly, is not much like it: did you say, 'I am not?'—No. *Q.* 'I am not an Orton; I am only a friend of her brother, and he is one of the richest men in Australia?'—No, I did not say that either; I told her I was a friend of her brother, but nothing about that. *Q.* Nothing about his being a rich man?—No; nothing." Again, he is pressed about her having said he must be an Orton. "Did you say, 'No, I am only a friend?'—It never passed, the conversation. *Q.* I think you told me you believe you did say you were a reporter for an Australian paper, and that you were going to Ireland to report on the Fenian movement?—Yes; I did say that. **THE LORD CHIEF JUSTICE:** What was your reason for saying that?—Merely, I did not wish them to have any idea who I was, my lord. **THE SOLICITOR-GENERAL:** I think you told me before; did you then show her a woman and child in a little locket and say they were the portraits of Arthur Orton's wife and child; I think you said no?—No; I had not the locket with me. *Q.* You told me you had a locket?—I had, but it was not on me, because I had no chain on. *Q.* You did not show it to her?—I had no watch chain on; therefore I know I had not the locket. *Q.* Did you then give her a letter addressed 'Miss Mary Ann Orton,' saying it came from her brother who was in Australia?—Yes. *Q.* Did you ask her to deliver it to Mary Ann Orton, personally, or to return it to you, addressed to the post-office, Gravesend?—Yes. *Q.* Under initials which you would send?—Yes. *Q.* Did you know what was in the letter? Did Arthur Orton tell you the substance of the letter?—Yes; I knew what was in the letter"—Why, gentlemen, of course he did, because there can be no doubt he wrote the letter himself—"Was there any message in it sent to Miss Loader, do you remember?—I do not know, I am sure, whether Miss Loader's name was mentioned in that letter or not; Miss Loader's name was mentioned in the letter he gave me for making inquiries. *Q.* That we know: I want to know in the letter that you——?—I do not think the name of Miss Loader was mentioned in that letter."

To go on with the narrative: The next morning he writes to

Mrs. Pardon, "Dear Madam Would you kindly inform the lady. for whom. I left the letter with you that if she will kindly communicate with me. at once. she will hear something to her advantage. Please send what information she can concerning a Miss Ioder. And her own family. and what became of her brother Thomas childrene. I Remain yours respectful W. H. Stephens, Address R. C. T. post office Gravesend and they will be forwarded."

Gentlemen, which is here telling the truth, Mrs. Pardon or the defendant? I do not know, as I said before, that in this conversation, further than the admitted facts—that the defendant went there under a feigned and assumed name and character as W. H. Stephens, when in point of fact he certainly was not W. H. Stephens, and that he kept up a correspondence in a feigned name and made use of a forged letter in the name of Arthur Orton, when in point of fact it never was written by Arthur Orton—unless he is Arthur Orton—but by himself—there is much in the conversation with Mrs. Pardon which adds to the significance of the facts; but we are accumulating on this subject, by degrees, a fearful number of persons with whom the defendant is in conflict as to matters which on one side or the other cannot be dealt with in any other way than as intentional falsehoods. Mrs. Pardon tells us all this conversation passed. If she is inventing it, as is suggested on the part of the defendant, it necessarily follows that Mrs. Pardon must be perjured. If what she has told us is true, the same thing holds good of the defendant.

Now the defendant admits that the lady referred to in that last letter was Mary Ann Orton, in other words Mrs. Tredgett, and he said at first that he received no answer from Mrs. Tredgett, but afterwards he appears to have admitted receiving one. On the 7th of January he writes to one or other of the Orton sisters. There is no envelope, and it does not appear clearly which of them it was. It was in these terms, which necessarily imply that he had received a letter from one or other of them, and that the one by whom that letter was written had come to the conclusion that the writer was no other than her brother, Arthur Orton. He writes from Gravesend on the 7th of January, 1867:—"Dear Madam I received your kind letter this morning. And very sorry to think you should be so much mistaken to think i am your brother. Your brother is a very great friend of mine. and one whom i regard as a brother and i have likewise promised. to send him all the information I can about his family. I cannot call on you at present, but will do so before long. I sent your sister a likeness of your brother wife and child. this morning. I should have sent you one. But i have only one left. which i require for Copying. I have likewise one of him self."—that is Arthur Orton—"which i intend to get some copy of. I will then send you. some of each. My future address will be. R. C. T.

Post-office, liverpool Liverpool. Hoping to have the pleasure of making the acquaintance of my friends sisters before long I remain your respectfully W. H. Stephens." The defendant is asked, "Who was that addressed to?—I cannot tell; I suppose the envelope is here? Q. Do you mean to say you do not know who that is addressed to?—No, I do not; one of the Jurys. Q. One of the Jurys?—Whichever one wrote to me. Q. Cannot you recollect which of the Jurys that letter was addressed to?—No, I do not. Q. Are both of them Arthur Orton's sisters?—Yes, both of them. Q. Is that written in your natural hand?—No, I think not. Q. You think not?—It is not. Q. Written in a feigned hand, and signed W. H. Stephens?—Yes." Then he is asked what has become of the letter. He says he has not got it. "What has become of it?—I do not know, I am sure. Q. Did you give that to Mr. Holmes too?—I think not. Q. What has become of it?—I think I destroyed it at the time. Q. How came that? did she address you as W. H. Stephens?—No, I think not. Q. 'Dear Madam I received your kind letter,'—'yours respectfully W. H. Stephens:' Had this letter been addressed to you, W. H. Stephens?—It might have been. Q. Might have been; was it?—I cannot say whether it was or not. Q. You cannot tell?—No. Q. Whether the letter in answer to the one in the name of Stephens in a feigned hand was addressed to you as Stephens?—No, I really cannot tell; I suppose it was. Q. You suppose it was addressed to you as Stephens?—Yes. Q. Where?—Where is that letter dated from?—The letter is dated Gravesend. It would be at Gravesend, I suppose. Q. What was the 'kind letter' you received? You say you have lost or destroyed it?—I am sure I have no recollection of the contents of it. Q. Surely—had you written to her?—I think not; no. Q. How came she to write to you?—I mentioned a letter previous; I think she wrote to me, if I mistake not, from seeing an account of my arrival in the papers." The drift of that cross-examination is to make the defendant admit that Mrs. Tredgett or Mrs. Jury had conceived the idea he was their brother from the similarity of handwriting. I do not know that it is of very great importance, because after all it would only be an opinion on their part, and would not amount to anything like certainty. Then there is a long cross-examination as to the contents of the letter, and whether she had not said in it that she recognized the handwriting. He denies it, and says her notion was derived from the Richardson letter and from what she had seen in the public papers. Then there is a great deal of cross-examination as to which of the sisters it was with whom he communicated, but I really do not think it is very important. Then he is asked this, which is, perhaps, more pertinent to the inquiry: "What do you mean by saying you 'sent to her sister a likeness of your brother, wife, and child, this

morning?"—It was not true; I had not at that time. The LORD CHIEF JUSTICE: You wrote in that letter what was not true?—I intended to do so"—that is, to send the likeness—"and I did not do so. The SOLICITOR-GENERAL: Was it a likeness of your own wife and child?—I tell you I did not send it at that time. Q. Did you afterwards?—I did afterwards. Q. One of your own wife and child?—Yes. Q. As Arthur Orton's wife and child?—Yes." Of course it is a very strange circumstance that he should have sent as the likeness of Arthur Orton's wife and child a likeness of his own wife and child, and he is asked if he can give any explanation of so strange a proceeding. The only answer he gives is "It was an indiscreet thing for which I am suffering."

Then he is cross-examined as to the statement that he had a photograph of Arthur Orton himself, and he admits he had no photograph of Arthur Orton; he had one of himself, but not of Arthur Orton. "Upon your oath had you not at the time a photograph of yourself and none of Arthur Orton?—I had none of Arthur Orton, I said so before. Q. Then the only photograph that you had which you could have alluded to, if you alluded to any, was a photograph of yourself?—I had a photograph of myself. Q. Was that the only one to which you could truly refer in that letter?—I do not say that. Q. What other had you?—I had no right to refer to any. Q. What other had you to which you could truly refer?—I tell you I told an untruth in saying so. Q. What was the object of the untruth?—I am sure I cannot say what object there was in it. Q. What?—I cannot say what object there was in it. Q. Could you not tell me why you wrote to Arthur Orton's sisters, sending the likeness of your own wife and child as Arthur Orton's wife and child, promising to send a photograph of Arthur Orton when you had got some copies of it: cannot you tell for what earthly purpose you sent that to Arthur Orton's sister, yourself writing under the name of Stephens?—No, I cannot; I dare say I had some object in doing so." "In that," says the SOLICITOR-GENERAL, "I perfectly agree with you: cannot you tell me what it was?—No; I cannot. Q. Have you forgotten?—I do not recollect. Q. That you mean to swear to the jury?—That I mean to swear. Q. That you do not know why you wrote this letter?—I do not know why I wrote that letter. Q. Yes?—I wrote in answer to one. Q. Why you wrote that letter containing those statements?—I am sure I cannot say what I wrote for. Q. What you wrote it for?—What I wrote these statements for. The LORD CHIEF JUSTICE: Or why you assumed the name of Stephens?—Well it appears so from that letter." Further on he assigns a motive, and he says this: "Having said I had the likeness of his wife and child, they bothered my very life out until I had sent one of my own." The LORD CHIEF JUSTICE: Repeat that. "Having

said that which was untrue—having told them as in the letter, which was untrue, they constantly bothered me, I did not know what to do, and I sent one of my own, thinking it would quiet them, to retaliate on them in the way I had done.”

One of the most curious incidents in this story is the sending a photograph likeness of his own wife and child as the wife and child of Arthur Orton. Not that I really think, however curious it may be, that it is a point of any very great importance. The only object of his sending a photographic likeness at all which occurs to me is, that he was anxious by giving that likeness of Orton's wife and child to sever as much as possible his own identity from that of Arthur Orton, and to lead these people to suppose that he was a distinct person from Arthur Orton, by making them believe that Arthur Orton had a wife and child of whom this was a likeness; and the reason he took his own wife and child's photograph instead of anybody else's, was that it was the first that came to hand. He wanted to convince them that Arthur Orton had a distinct identity from himself, by making them suppose that while Arthur Orton was remaining in Australia, he, the defendant, had come home to this country and had brought with him a likeness of Arthur Orton's wife and child. Wanting a likeness to represent Arthur Orton's wife and child, he took that of his own wife and child instead of anybody else's. That is the solution which it occurs to me to put upon it. I do not think otherwise that the circumstance of its being his own wife and child makes the fact a bit stronger than if it had been the likeness of the wife and child of anybody else.

Then he is cross-examined as to why he desired further communications to be addressed to Liverpool. At first his explanation is that he had an idea of going to Ireland, and on his way to Ireland would have to pass through Liverpool, and therefore desired further communications to be addressed to the post office there. After a bit he gives that up, and gives what probably was the true reason: “Can-not you tell me, now, really? Cannot you tell the jury or give some suggestion why upon earth, writing from Gravesend to Wapping about the Orton family, you said your future address would be Liverpool?—Probably I did it, because I did not want to be bothered any further with them: I cannot say, I am sure, what it was. Q. Because you did not want to be bothered any further with them, and therefore you told them to send to Liverpool?—I should think so; I had no intention of going to Liverpool myself.” He had got all that he wanted in the way of information, at least as much as he was likely to get, about the Orton family. That being so, he desired to discard these correspondents, and get rid of them. Then he is asked as to his knowledge of the statements contained in that letter, and he is brought to this admission. “Is there a single

word of truth from beginning to end, including the signature, or is it false from beginning to end?—I think it is all false from beginning to end.” The Solicitor-General is not satisfied with that, though the defendant had just said it was all false, but he goes on—“Just point out what is true from the commencement to the end and signature.” Then he qualifies the previous admission. “There is that part true: her brother was a great friend of mine, and I promised to send what information I could out to him. Q. Is there any other part that is true?—No, my Lord, that is about all. Q. Is that one of the letters to which Mr. Scott referred as to its having been stated at the meeting to be a forgery?—That is one of the letters. The SOLICITOR-GENERAL: You said it was a forgery?—I did. Q. And that was a lie?—That was a lie.” So much for that correspondence.

Now the question which naturally presents itself is this. For what purpose all this machinery? all this elaborate system of artifice and fraud? assumption of a feigned name, writing a forged letter, conducting correspondence in a fictitious name—why should all this have been employed? Above all, why should Roger Tichborne have done all this? Why should he have assumed the false name of Stephens? Why should he have written a forged letter in the name of Arthur Orton? Why should he have used such a letter as an introduction to the Ortons? The only way in which one can suppose that that could be used by the writer is that it was intended as a means of putting himself into communication with the Orton sisters, and obtaining information about the family with the least danger of being recognized. Possibly with the hope, if the claim is a dishonest one, of obtaining their assistance. But again the question comes home to one, why should Roger Tichborne have recourse to these means for the purpose of obtaining information about the Ortons, and at the same time of avoiding recognition? What was there to make Roger Tichborne hesitate about appearing to be Roger Tichborne, and being recognized as such, if he had such motives as the defendant represented, namely, a desire to obtain information about the Ortons to send to his friend in Australia, or the benevolent design of assisting the friend's relations? In such case why not have gone as Roger Tichborne? Where is the purpose of all this concealment? I seek in vain to discover any purpose Roger Tichborne can have had in his mind in thus concealing who he was when going down to Wapping.

But in addition to those reasons, which he at first gave, the defendant afterwards gives another. At a further part of the cross-examination he is asked, “What did you go to Wapping for?” And he answers “to ascertain whether Orton had arrived; to ascertain whether Arthur Orton had arrived in this country.” Of course

that is inconsistent with the statement he had previously put forward and the explanation he had given, that he wanted to give assistance to the family of Arthur Orton if they required assistance. Still more inconsistent is it with the statement that he wanted to obtain information about them to send out to Arthur Orton in Australia.

Again, is this a thing you can suppose to be really true? Could Roger Tichborne, if the defendant is Roger Tichborne, suppose that Arthur Orton would have arrived in this country at the same time as himself? The defendant tells us that after he had seen Orton at Wagga-Wagga, when the will was executed, Orton went back to Albury; and in one of the letters to Rous he says, "they want to make me out as Arthur Orton. But the man who they suppose me to be is living at Wagga-Wagga at this moment under an assumed name;" and he tells us that when he wanted Arthur Orton to produce him in this country as a witness, in order to establish the fact that he and Arthur Orton were not one and the same, he sent to him at Wagga-Wagga, writing to him through one Robins—a wheelwright, a common friend of the two—and not dreaming of Arthur Orton being in this country, or thinking of making any inquiry for him here. Nor does it appear that any inquiry was made by him about Arthur Orton at the time. He says it was. But Mrs. Fairhead and Mrs. Jackson do not say he said a word about Arthur Orton; on the contrary, they took him to be the Arthur Orton who had gone away so many years before. Whereupon he denied being Arthur Orton, but says nothing about Arthur Orton's coming to England, and in his letter to Mrs. Jury he speaks of him as then in Australia, and of wanting to send out information to him. Therefore I cannot help thinking that the statement that he went down to ascertain whether Arthur Orton had arrived cannot be accepted as true. On the other hand, when he says he wanted to obtain information about Arthur Orton, I do not understand him to say he sent any information which he may have acquired from the sisters to Arthur Orton at all. Having said he wanted to find out these people with a view of affording them assistance if it should turn out that they wanted it, we find he gave them no assistance, at all events, for a considerable time. He says he sent them on a false scent to Liverpool, because he did not want to be bothered with them any more. As soon as he had got what he wanted he drops the acquaintance and casts them off, and it is not until many months afterwards, until the Arthur Orton theory had been broached, and it was said he was Arthur Orton, that he took them up again, and did afford them pecuniary assistance. Again I am led to ask what motive could Roger Tichborne have had for this course, and still more for such concealment as the defendant appears to have resorted to?

Gentlemen, his counsel starts two or three theories by way of ex-

planation: they are not the explanations of the claimant, but are the counsel's own theories. He says Arthur Orton and the defendant were associated together as companions in the forests of Australia, and that probably they were mixed up together in some transaction which would not bear the light. He says Arthur Orton was a bush-ranger in Australia, at all events for a part of his life; that the defendant was his companion, and he may have been a party to, or at all events privy to, some deed of violence which would put them both in danger of the law. Now, says the learned counsel, when Arthur Orton knew the defendant was coming to England, and was coming to make this claim to a title and estates, Arthur Orton may have said to him, "Now my friend, mark! you are going to put forward a great claim, you may succeed; but do not forget that you and I have been participators in certain things which it would be by no means convenient for you to have disclosed on the other side of the water. You must go and look up my relations and provide for them; if you do not, you may have me over in England, and may find me a very troublesome customer." Or, says the learned counsel, "the defendant may have been mixed up in some affray, and Arthur Orton, for aught we know, may have saved his life; so that he may have conceived a strong sense of gratitude and felt himself under obligations to Arthur Orton which he was bound in some way to discharge. Feeling himself under such obligation to Arthur Orton, and, impelled by a sense of gratitude, the moment he got to England he may have gone to look after Arthur Orton's relations." You have thus the choice between the alternatives which the learned counsel places before you. It is strange these things should not have occurred to his client; it is strange that when the learned counsel is putting forward these remarkably inconsistent theories he should not have asked his client which of them was in reality the true one? There was the client sitting under him, probably hearing with as much surprise as any of us his learned counsel elaborating these high-wrought and fanciful theories. It strikes me the learned counsel would have done better if he had said to his client, Tell me what the real fact is: how was it that you, not being Arthur Orton—if you had been Arthur Orton the thing would have been the simplest thing in the world—came to go to Wapping? Tell me what the fact was, and then I shall be able to put it to the jury, and if it be the truth, then probably it will be found to be congruent with the other facts and circumstances of the case. That was the course you would have expected the learned counsel for the defendant to have taken. But the learned counsel has laid down a totally different principle of action. He says, I am not my client's confessor, therefore I do not wish to ask impertinent questions which it may be inconvenient to him to answer. Put in plain words and divested of the ornamentation of the learned counsel's rhetoric, such is the principle

of action upon which he represents himself to have proceeded in the conduct of this case. It is a new one altogether. I should have thought that a man desirous of putting his client's case upon the surest foundation would, as the very first thing, have asked his client to tell him the truth with regard to any doubts or difficulties which presented themselves in the case. Not so the learned counsel, he prefers to spin his own theories; and certainly it is a very convenient mode, because there is then nothing to interfere with what one may call one's conscience. It is awkward to put before a jury for acceptance a proposition which you know to be untrue. It does not quite harmonise with the feelings of a man of honour and a man of truth to propound theories which he knows in his own heart and conscience a jury ought not to be asked to adopt. It is more convenient to have your hands untied and your conscience unfettered. It gives the freest scope to the imagination and fancy not to ask the client what is the fact, and so to be fettered and bound by what is the truth. Therefore we must take the learned counsel's theories and deal with them as best we may. The answer to both the theories so propounded, as it strikes me, is this, that if he had been under the fear that Arthur Orton could have ripped up some transaction and have attacked him with it, he would not have done what he did: he would not have stopped with finding out the Ortons, but would have gone on to do what his apprehensions would have impelled him to do—namely, to assist this family; instead of which he drops them. Equally so, if it had been from an overwhelming sense of gratitude for services rendered or kindnesses shown that he had been induced to go and look after them, he would not have left them without assistance and have done his best, as he said he did, to shake them off and get rid of them. All reasonable explanation thus failing, I cannot help coming back to the question with which I started, what could be the motive of Roger Tichborne for all this machination of fraud, for all this secrecy and concealment? I am at a loss to see any. But assuming him to have had some motive in going to the Orton family, looking after them, and sending to them, but that, at the same time, he had been mixed up in some nefarious transaction with Arthur Orton, so that he did not wish to broach the name of Arthur Orton or acknowledge any acquaintance with him, yet when the Arthur Orton case was put upon him, and it was asserted that he was Arthur Orton, I should have thought he would have said to his friends and advisers, and if he did not say it to them they would have said it to him the moment the suggestion was made that he was Arthur Orton—that there was only one thing to be done, namely, to go to the members of the Arthur Orton family, challenge them to say whether or not he was Arthur Orton, as the shortest way of settling that case and putting an end to it. That course was not adopted; on the contrary, the defendant not only

avoids seeing the Orton family until a much later period when things had got much further advanced, but he actually denies to his own intimate friends and abettors—I do not use that in an invidious sense, his friends and supporters is a better phrase—that he had ever been at Wapping at all.

The statement that he was Arthur Orton was made in the course of the year 1867, and it came to his knowledge in the month of October, and he thus writes to Rous in a letter dated “2 Wellesley Villas, October 20th /67. We find the other side very busy. With another pair of sisters for me. One of them been to see Mr. Holmes. they had been three days at them. and they are quite sure of success. Only there is this different which I cannot make out. The brother of these young Womans is dark and very much marked with the small pox very much about the face. But they are still very sure I am him. I wonder who I am to be next. The man they think I am is still living at Wagga-Wagga under an assumed name. This accounts for the Independents of George Greenwood. They say I was born in Waping”—written with one “p”—“I am glad they have found a Respectable part of London for me. I never remember having been there. but Mr. Holmes tell me it is a very respectable part of London.”

Upon this he is asked, in cross-examination, “Why did you tell Mr. Rous that you had never been at Wapping?—I did not choose that he should know. Q. Why did you tell him you had never been there?—Why should I not? Q. Because it was a gratuitous lie, if you ask me: Why should you have said you had never been there? You might have held your tongue: Why did you tell him that: You had been there you know?—Yes, I had been there. Q. You had been there and had not forgotten it, I suppose?—No, I had not forgotten it: I probably had at the moment I wrote. Q. You probably had at the moment you wrote?—At the time I wrote that letter. Q. Although you were writing about Arthur Orton and ‘they had said you were born in Wapping, you never remembered having been there, but Mr. Holmes told you it was a respectable part of London,’ You had forgotten you had been there on Christmas day?—How could I tell what sort of a place it was at that time? Q. Had you forgotten you had been there in 1866?—Probably I had when I wrote that letter. Q. Though you were writing about Orton?—Yes. Q. What did you go to Wapping for?—I went there to ascertain whether Orton had arrived. Q. You went to Wapping to ascertain whether Orton had arrived, you were writing a letter.—That letter was nothing at all to do with it. Q. Wait a moment: You went to Wapping to ascertain whether Orton had arrived before you wrote to Mr. Rous to say they had said you were Orton?—That is a long while after. Q. And that you had been born in Wapping: You

had forgotten whether you had ever been there, is that what you say?—That is a very nice way for you to put it together; that is the way you put it. Q. Excuse me, it is not anything of the kind. It is not the way I put it together: Had you forgotten?—Probably I had. Q. Probably you had?—Yes. Q. Probably you had forgotten that though you went to Wapping to see if Orton had arrived there, and were writing about Orton, and were saying that they said you were Orton, and were born in Wapping, you had forgotten whether you had ever been to Wapping?—I cannot say I had forgotten it, perhaps I did not choose to mention it. Q. You just said you had forgotten it.—I said ‘probably.’ Q. Is it true that you had probably forgotten it?—I cannot say I remembered it at the present moment. Q. Perhaps you did not choose to mention it?—I think that would be more likely. Q. Which is true, that you did not choose to mention it, or you had forgotten it?—I could not say, I am sure, which was true. Q. Why did you say you had never been?—I do not know, I am sure, why I ever said that. Q. Who was asking you any questions about Wapping? Why should you tell Mr. Rous you had not been there?—I cannot tell you, I am sure.” Further on, he is again asked why he did not mention having been to Wapping. His answer is, “I do not see why I should mention it. Q. Did you carefully not mention it?—I did not care about mentioning it. Q. Did you take care not to mention it?—Probably I did. Q. Why? why? why?—Because I had my reason for going there, but I should not care about telling. Q. What was your reason?—My reason was to ascertain whether he had got there before me.” Then comes this question: “Did he happen to arrive at one and the same instant of time?—Certainly not. Mr. SERJEANT BALLANTINE: You had better put ‘place’ also; it is possible as to ‘time.’ The SOLICITOR-GENERAL: You cannot tell me why you said not a word about that to Lady Tichborne, or any one?—I can tell you this: I did not care about it being known.” Then he is asked as to where he made the inquiry where Arthur Orton was, and he says at the public-house, on which point he is contradicted by the evidence of the witnesses, Mrs. Fairhead and Mrs. Jackson, who say they charged him with being Arthur Orton, and that he said nothing about having come to inquire whether Arthur Orton had arrived, but simply denied that he was the individual in question.

Gentlemen, the conduct of the defendant, in going down to Wapping the first night of his arrival in this country, instead of waiting until the next day, if he wanted to go and make inquiries about this family, as a man naturally would have done, unless there had been some very pressing and urgent cause to take him there, is certainly a matter of very great importance, as tending to throw light on the question as to whether the man who conducted himself

in this astounding way without any sufficient motive can have been Roger Tichborne. The learned counsel has made a great point about it with reference to the Arthur Orton part of the case. He says you cannot suppose that if the defendant were Arthur Orton, he would have gone to a place where he was likely to be known, and would thus have exposed himself to the chance or the risk of being told immediately, "Why you are Arthur Orton," which, as it turned out, really was what was addressed to the defendant by the two women at the "Globe," as well as by Mrs. Pardon, when she saw him the next morning. That is a matter to be dealt with when we come to the Arthur Orton part of the case, but what I am now putting before you is the question of whether you think the conduct of the defendant upon that occasion reconcilable with what you would have expected, and which alone could have been expected, from Roger Tichborne. That is the part of the case with which we are now dealing, and with reference to that part of the case I think there can be no doubt, that the course taken by the defendant on the occasion of his first landing is very material indeed to the result of this inquiry.

On the 26th of December, the same day that the defendant went to Mrs. Pardon and left the letter for Mrs. Tredgett, he took his family down from Ford's Hotel to the Clarendon Hotel at Gravesend, leaving Bogle and young Butts at Ford's.

This again seems a somewhat strange proceeding. Here is a man who comes to England to put forward his claim to the title and estates of Tichborne. You would have expected that the first thing he would do would be to communicate with his family and friends in this country, with his mother if she was here, and if not, with his relations and friends, with whom he had been intimate during his stay in this country: instead of which the defendant goes down to Gravesend, and there remains in a species of concealment for two or three days. He is asked, naturally enough, why he did this, and he says that his purpose was "to keep out of the way." He is asked "To keep out of whose way?" He answers: "There were a great many inquiries directly I arrived at Ford's Hotel, and I promised my mother faithfully to see no one until I saw her; so the next day I took my wife and child, and went and stayed at the Clarendon Hotel. Q. You promised your mother faithfully to see no one until you had seen her; and as there were inquiries at Ford's Hotel, you went down to Gravesend to keep out of the way?—Yes. Q. Then was it in pursuance of that faithful promise that you went down to Ahresford?—I should not say 'promise;' it was more a wish of hers."

The first thing that strikes one here is this. He arrived on the evening of the 25th, and he goes on the very next day to Gravesend.

What time was there for the announcement of his arrival in this country and inquiries at Ford's between the evening of the 25th and the afternoon of the 26th? Because nobody knew, except Lady Tichborne, by what route he was coming home. She was in Paris, and the original plan had been, as he tells us, that he should sail by a French steamer from Panama, and go direct to his mother at Paris, so that no one was prepared for his immediate arrival in this country. I am, therefore, at a loss to see what time there could have been for inquiries so numerous as to make his residence at Ford's unpleasant and likely to be inconsistent with the promise he made to his mother. Such, however, is his statement.

Having arrived at the Clarendon, at Gravesend, and established his wife and child and maid servant there, he goes down, on the afternoon of Saturday, the 28th, to Alresford, and takes up his quarters at the 'Swan Inn,' kept by Mr. Rous, who formerly had been the managing clerk of Messrs. Dunn and Hopkins, the solicitors at Alresford, who had been the solicitors to the Tichborne family.

Now Rous, as having been clerk to Messrs. Dunn and Hopkins, had perfect knowledge of all the settlements and deeds which had been prepared by that firm relating to the Tichborne and Doughty property, and he therefore, of course, would become, if the defendant could make a friend of him, a valuable ally even to Roger Tichborne himself, because he would be able to instruct Roger Tichborne as to many things that had taken place since Roger Tichborne's absence, and he might revive Roger Tichborne's recollection as to things which Roger Tichborne might have forgotten. Still more valuable would the alliance of Mr. Rous be to anybody who had never had the knowledge of the things that Roger Tichborne ought to have known, and might be expected to know. The defendant establishes himself at the 'Swan' under a feigned name, that of Taylor, which name he says he took owing to the initial on his carpet bag being a T for Tichborne, and not being desirous of stating his own name, and not wanting them to know who he was, he took a name, the initial of which corresponded. Then he tells us that on the next day after his arrival he went out for a walk, and went towards Tichborne to see the people who were coming out of Tichborne Church. On that occasion he met Etheridge, the old blacksmith, who had lived all his life at Tichborne. Nothing can be more conflicting than the statements of Etheridge and the defendant. Etheridge says that as he was going on the Sunday afternoon into Alresford to get shaved, he met a stout man whom he did not know, and who stopped him and asked him the way to Tichborne, upon which he said, "Yon's the church." Tichborne Church stands on an eminence and can be seen from a distance; you have nothing to do but to

follow the road and it brings you up to the church. Says the stranger, "Would you like to have a glass of beer?—Yes, if I had the money to pay for it." So the defendant gives him sixpence to get beer. The man goes on to Alresford, has his beard shaved and gets his beer, and as he is coming back again to Tichborne, he falls in with the same stranger again, who stops to speak, and says, "They say Roger Tichborne has come back.—Oh no he is not," says Etheridge, "he is drowned." Says the other, "Is there not a great deal of talk about Sir Roger Tichborne coming back and being known in the place?—No, he will not come back, for he is drowned." Then, after a word or two, the stranger looks at him and says, "Do you think I am he?" Says Etheridge, "No, I'm damned if you are. If you are, you have turned from a race horse to a cart horse," and so, says Etheridge, ended our conversation.

Now, if that evidence is true it implies a good deal, because to suppose that Roger Tichborne required to be told the way from Alresford to Tichborne would be perfectly absurd. He could have found it in the dark; he must have known it as well as he knew the way from one room to another in Tichborne House. Not to know Tichborne church, which stands on an eminence, and which you can see a long distance off, would be on the part of Roger Tichborne an impossibility. It is, however, always possible that the defendant, being desirous of drawing the old man out, might, in order to begin the discourse, have said, although he knew the way perfectly well, "I say, my friend, which is the way to Tichborne." Unless you solve it in that way, it is plain Roger Tichborne never could have asked the way from Alresford to Tichborne, a distance of two or three miles, every inch of which road he must have known perfectly well.

But the defendant gives a totally different account. He denies the statement of the old man. He says that he went to Tichborne, and on his way between Tichborne and Alresford, met Etheridge. He is asked: "Etheridge is a blacksmith, I believe; had you some talk with him?—I had. Q. Did you say to him, 'Is there much talk about Sir Roger Tichborne coming back?'—No, I never mentioned my own name at all. Q. Did you say, 'Should you think I was Sir Roger Tichborne?'—I did not. Q. Did the blacksmith say, with an unbecoming violence of asseveration, 'No, I am damned if you are?'—He did not; we had no conversation on that occasion at all. Q. He did not say that?—No, we merely passed the time of day; I asked him where he was going, and he said he was going into the village to get shaved, and I think I gave him sixpence to get a drop of beer with. Q. He did not say that?—I saw him again in the evening; perhaps that is what you are alluding to. Q. Did you have some talk with him, and did you give him some drink in the evening?—Yes, I gave him sixpence to get some beer with in

the morning. *Q.* I am suggesting to you all this happened latish in the day, after you had your drive"—That was a mistake, he did not have the drive till the Monday or Tuesday—"It was not the same day; we may agree as to its being late in the day. *Q.* I suggest to you it was late in the day?—I have no objection to putting you right: I am not going to deny anything that did happen. I met Etheridge, and I had a few words with him; I did not make myself known to him; I asked him the time, and where he was going to; I gave him sixpence to get some beer with. I again met him in the town of Alresford, at nine o'clock the same night, and then I did have a little conversation with him; that lasted for ten minutes, I think, or more. *Q.* Had you a good deal of talk with him about the Tichbornes, and the neighbourhood?—Yes, I had. *Q.* What I am putting to you is, whether at the end of the conversation, there was a good deal of talk about the Tichbornes, and whether there was much talk about Sir Roger coming home?—Certainly not, because he told me I had been dead, he did not know how long, and Bogle too. *Q.* He told you that?—Yes. *Q.* You say he said you were dead, and Bogle, too: Had you much talk with him about Bogle? Did you encourage him to talk to see what they thought about Sir Roger there?—Very probably I did; I do not remember the conversation. *Q.* Very probably you led him to talk?—I should think the probability was I would do so." Then he says that "Etheridge told him some rigmarole of the Tichbornes who were the warriors of old times." "He told me the Tichbornes of the present day were not the Tichbornes at all; they were not the sort of Tichbornes that used to be—the Tichbornes when his grandfather was alive—they were not the warriors. *Q.* The warriors?—He told me some rigmarole of that kind; he went into some explanation. I listened very quietly to all he had to say, and I merely asked him a question that made him jump, and he bid me good night. *Q.* Was that when he said he was damned if you were?—No. *Q.* What was the question that made him jump?—I asked him whether he remembered Roger Tichborne hitting his cat in the barn, and whether he remembered running after him with a flail. *Q.* Then he jumped?—Yes, and he left me. *Q.* He was surprised at the extent of your information?—It was not that; he evidently thought he was talking to somebody who knew more than he thought they did. *Q.* That did happen?—It did. *Q.* What was it?—A favourite cat he had in the barn. *Q.* What happened about it?—I gave it a cut with a whip as I was coming by. *Q.* What about the flail?—He ran after me with a flail. *Q.* Did he catch you?—Not exactly. *Q.* That you reminded him of and made him jump?—I did not make him jump: You do catch hold of a word if I happen to make use of it. *Q.* Well, made him start?—Yes. *Q.* How long ago had that happened about the cat, and

the flail, and the whip?—I cannot say, I am sure, the year it was in. Q. A great many years ago, when you were a youngster?—Yes. Q. Were you by yourself when that happened?—Was I by myself? Q. Yes. When you gave it a cut with your whip?—Yes; I was by myself. Q. No doubt you can tell me when it was?—I cannot tell you when it was. Q. Have you ever talked about it since?—Have I ever talked about it since? No; I do not think I have. Q. I mean since that time; since the time you hit the cat with the whip, and he pursued you, and the time you reminded him of it and made him start?—I do not think I have. Q. And it came back to your memory just as it was the day before?—The sight of the man brought it back to my memory.”

Now Bogle has said that one of the things which the defendant mentioned to him at Sydney was about Etheridge and the cat, which made an impression on him as having an old Tichborne recollection. One is, therefore, surprised at the answer of the defendant, when he says he has no remembrance of having talked of it since. Not only did Bogle say he told him of it, but Gosford says that, when he saw Bogle, Bogle mentioned to him as a circumstance which appeared to him to be consistent with the defendant being Roger Tichborne, that upon various occasions, when he was coming home from Australia, the subject of Etheridge and the cat or cats had been talked of by the defendant and himself; which, by the way, is not quite consistent with one of Bogle’s statements, that he never had any conversation with the defendant, either on the way from Sydney to Panama, or during the month they were staying at Panama, or on the voyage home. That is a statement which I must hesitate to accept; with all my predilection for Bogle, and desire to believe him truthful, I cannot bring myself to believe it.

Then there is a great deal about this cat, and the colour and particulars of the cat, and the sex of the cat: I do not think it is worth while to go into all that, beyond pointing out that Etheridge gives us a totally different account of what happened with the cat; and if Etheridge’s account is true, then it would appear that the defendant must have got hold of some story about Roger Tichborne and Etheridge’s cat, but must have changed some of the material elements of the story. Etheridge is asked this: “Do you remember anything happening one day: you had a favourite cat, I think?—Yes. Q. Do you remember Roger having a favourite dog?—Yes; I believe he had a favourite dog, the right Roger Tichborne. Q. Do you remember anything happening one day; had you a barn there?—Yes, at my house. Q. Do you remember ever seeing his dog doing anything about your cat?—Sir Roger Tichborne’s? Q. Yes; what did you see?—What did I see? I see the dog chase the cat and jump over the barn as I was in the barn threshing, and the cat flew

for her life over the barn, and the dog followed. *Q.* What did you do?—Took the flail and hit the dog. *Q.* That made the dog leave off?—That turned him back over the crook of the barn. *Q.* Did you know a man named Bill Mansbridge?—Yes, next-door neighbour. *Q.* What was Bill Mansbridge?—A little boy of about eight to ten years old. *Q.* Was he there when you struck at the dog?—Yes. *Q.* Did he see you do it?—Yes, he did see me do it, I believe. *Q.* Did he say anything to you?—He says, ‘You should not have done that, Etheridge; it is Roger’s dog.’—I said, ‘I do not care whose dog it is, he sha’n’t kill my cat.’ *Q.* Did you see Roger himself?—He said I should not hurt the dog: I told him he had no business to set him at the cat.” That is a very different account to that which the defendant gave; because the defendant says that it was he who struck the cat with the whip he had in his hand, whereupon the old man came out and followed him, and struck at him with the flail; so that in the defendant’s story Roger’s dog plays no part, and the man is made to run after Roger with the flail instead of after the dog. I do not know that it is of any importance which of these stories is true in any other sense than this, that the fact of the story of the cat having been spoken of by the defendant was thought, both by Bogle and afterwards by other people, as an incident showing his recollection of something that happened in Roger Tichborne’s time, and his memory of which must therefore be taken as a proof of his being Roger Tichborne.

I should observe that Etheridge does not appear to have been asked positively, with reference to the cat, whether, on the occasion of this meeting on the Sunday, anything was said which made him start, from the circumstance that the man he was speaking to knew something which Roger Tichborne should have known. It is only by implication that the negative arises, Etheridge having told us, that on his saying the defendant was not Roger Tichborne, their conversation ended there.

On the next day, Monday, the 30th, the defendant communicates to Rous the fact of his being Roger Tichborne. He says that this was in consequence of Rous putting the question directly to him; that Rous had conceived the notion that he was Roger Tichborne, and put the question to him, and he answered it in the affirmative. After that Rous tells him he is going to drive to the Home Farm at Tichborne, and proposes to him to go with him in the dog cart. The defendant accepts the offer, and goes with him. Of course that would give him an opportunity of seeing the locality, which would be a very pleasant thing to him if he was Roger Tichborne, and a very useful thing to him if he was not, because it would enable him to know something about the appearance and position of the house, and when he saw Lady Tichborne or any member of the

family, would enable him to speak about the house as though he was familiar with its external appearance. He passes the front and one side of the house, and so gets a view of it.

That was on the 30th. The next day, the 31st, the defendant telegraphs to Bogle, who was still at Ford's Hotel, to come down immediately. Bogle receives the telegram and is surprised to find that instead of the defendant being at the Clarendon Hotel, Gravesend, as he supposed, he had gone to Alresford. Bogle obeys the summons. He goes down that same evening to Alresford, where the defendant then was, and when he arrives at the station he finds a crowd of some 300 or 400 persons assembled to meet him. In short, it would appear as if all Alresford had turned out for the purpose of receiving and welcoming old Bogle back, and I can quite understand it. He had lived in that neighbourhood for years. He had been, as I have no doubt his manner and good humour would make him, a general favourite, and everybody was rejoiced to hear Bogle had come back again from Australia to Hampshire. They all assembled to receive him. They received him with acclamations, and conducted him to the inn with, what the learned counsel for the defendant would call "an ovation." Of course, this surprised Bogle; he was not prepared for such a reception, and it must also surprise us that he should meet with it, not that he did not deserve it, but because the defendant had gone down, as he told us, under strict injunctions from his mother not to make himself known to anybody till she had seen him. But it is clear that at this time he must have made himself known, because it was only through him that the knowledge that Bogle was coming down could have been communicated to the people at Alresford. They could not have known it by intuition. The moment Bogle came all concealment would be at an end. There cannot be any doubt therefore that at this time the defendant had thrown off the mask, and was no longer Mr. Taylor, but Sir Roger Charles Doughty Tichborne, and had announced himself to the people there in that character: and we shall see that it went all over the country that Roger Charles Tichborne was at Alresford.

Bogle arrives, and sees the defendant; and in the course of the evening tells him he is going to Tichborne the next day, the first of January. There would be service on the New Year's day at the Roman Catholic chapel, and Bogle intimates his desire to go to chapel. The defendant says, By all means; have a carriage and go over; to which, Bogle tells us, he added, "And if you can contrive" (that is Bogle's own expression) "to get into the house, be sure and observe whether the same pictures are there that used to be there formerly." Next morning Bogle goes over to Tichborne, and does get into the house. Mrs. Greenwood was at chapel, and as soon as Mrs. Greenwood made her appearance, Bogle, I have no doubt, with

a very honest and genuine feeling towards one who was so nearly connected with the family in which he had served for half a century or near it, rushed up to her and seized her by the hand, manifesting much feeling on the occasion, and then he tells her he should so like to get inside and see the house once more. Colonel Lushington, who was then occupying Tichborne House, was not there, but Mrs. Greenwood goes to the servant and says, "Here is Bogle who lived in this house so long. He wants to see the inside of it. It is a natural feeling; pray let him in." He is let in; he sees the pictures; he sees the lower part of the house; and he tells us what passed between him and the defendant on his return. He says he told the defendant that not only were the pictures there which used to be there in his time, but that new pictures had been introduced; and he tells us that he observed there were two pictures of the Dowager Lady Tichborne that had not been there in his day, but which had come there since. But he tells us that, beyond the general inquiry whether the pictures were still there that used to be there, the only picture the defendant asked him about was a picture called the Queen's picture, which was a picture of Queen Elizabeth with one of those ruffs which were the fashion in Queen Elizabeth's days. If that was all that the defendant asked about, it certainly was not worth while to tell Bogle to get an entrance into the house to ascertain about the pictures.

But this is one of the matters on which I think you must exercise some judgment in accepting the statement of Bogle in its entirety. There were several pictures there that he must have known very well, among others the Dole picture. The defendant had got a catalogue which had been made for the purpose of a sale of the pictures, but the sale had not taken place. An execution had been put into the house against Sir Alfred Tichborne, and the pictures had been catalogued for sale, but they were not sold. Why, we are not told; possibly the execution was paid out. And it might be very material for the defendant, if not Roger Tichborne, to know what pictures were there, in order that when he went to the house to visit Colonel Lushington, he should be able to fix on particular pictures as though he had a remembrance of them, or that when he went to Paris he might be able to talk to Lady Tichborne about those pictures. Bogle, however, says he asked him about no picture except the Queen's picture, that is, Queen Elizabeth with the ruff.

Now, one asks oneself, for what purpose was Bogle telegraphed for in this sudden way. What was he brought down to Tichborne for? Certainly not to attend upon the defendant, who appears to have been a man who could take care of himself. He would not want a personal attendant, otherwise he would have taken Bogle, or some servant, down with him. But he only telegraphs for Bogle on the 31st, and there being no apparent reason why Bogle was sent for, it

is but reasonable to suppose that the object was that he might be used for the purpose for which he was used; and the use which was made of him was to send him into the house at Tichborne, in order that he might see these pictures, and see what was there. I cannot help thinking he must have told the defendant more than he says he did, and for this reason. A great change had been made inside of the house, a change which was attended with very considerable expense. Sir Alfred Tichborne, among various extravagancies into which that young man fell, had conceived the notion of turning that portion of the house which had been inhabited by Sir Edward Doughty in the latter part of his life, when he could not go up and down stairs, having paralysis in the leg—part of the ground-floor, the library and another room adjoining being appropriated to him—of turning some of that part of the house into a large banqueting hall, altogether disproportioned to the size and character of the house. Sir Alfred having gutted this part of the house, but failed to do anything with it in the way of restoration, it remains to the present day in a state of desolation, nothing but bare walls, all the partitions which constituted the rooms being gone. You will find that referred to in a letter of the defendant to Lady Tichborne a few days after this. He did not go into the house himself and see this, and must in all probability have learned it from Bogle. Therefore Bogle must probably have told him more than Bogle tells us he did. At the same time the information may have been obtained from Rous.

But there is also another purpose which Bogle may have served, and in which he may have been very useful. If there was anybody capable of forming a judgment about Roger Tichborne, supposing it honestly formed, it was Bogle, from having lived so long in the family. Having been in Tichborne when Roger Tichborne was there for months at a time, having seen him from time to time until within a very few months of the time when he finally went away, Bogle was very well calculated to form as good a judgment as almost anybody could be, and if you are of opinion, as I think you will be, that Bogle was honest in accepting the defendant as the real Roger Tichborne, that is a very considerable point in favour of the defendant to be put on his side of the account.

Now Bogle's coming down and announcing to all the world that the defendant was Roger Tichborne was a thing calculated to produce a very powerful impression on the mind of the people in the neighbourhood. Folks would say, "Here is Bogle, the old servant we knew so long, and respected and liked, come back again. Why has he come back? Because he has fallen in with the long-lost Roger Tichborne; he is satisfied this man is Roger Tichborne, and he is ready to proclaim it all over the world." Of course that would produce a very powerful sensation at Alresford, and I can quite

understand the defendant saying, "I do not care what my mother has said about my not seeing anybody before I see her: I shall go down to Alresford, and have Bogle down;" or it may have been suggested to him when he was there that Bogle would carry everything before him, as the best proof that could be produced of his being Roger Tichborne. I think, probably, that was partially the motive of sending for Bogle, as well as the desire that Bogle should get into Tichborne House and bring information to the defendant as to its interior, which it might be interesting and useful to him to know.

On this occasion of Bogle's visit to the house he met, as I have said, with Mrs. Greenwood; and what proves that the defendant had not sought to maintain his incognito, but, on the contrary, had announced to the Alresford people who and what he was, is that it was spreading like wildfire over the country. The news of Roger's return had been conveyed to Mrs. Greenwood, and the first thing Mrs. Greenwood did when chapel was over was to go up to Bogle and say, "They tell us Roger Tichborne is at Alresford." "No," says Bogle, "he is not." Mrs. Greenwood was not altogether satisfied with this denial. She says to Bogle, "whether he is or is not, give my best regards to him, and tell him I am most anxious to see him, and I sincerely hope he will come at once to Brookwood and let us see him." "At that time," says Mrs. Greenwood, "I really supposed it was Roger Tichborne that had come back." She had not at that time conceived the idea that any one could come forward and claim to be the lost Roger who in point of fact was not entitled to that character, and therefore she invited him to come to Brookwood, which, however, he never did.

Now comes the question how it was that the defendant himself went down to Alresford. We should naturally have expected one of two things, either that he would make himself known to his relations here, or that he would at once have hastened to find his mother, who, as we know, was at Paris. What we should naturally expect of a man who comes back from residing abroad after a long period of exile, especially if he comes forward for the purpose of establishing an identity with a person who, up to that time, was supposed to be dead, is that he would immediately proclaim himself to all the world. He would seek out former friends and relations, especially those with whom he had been on terms of close and affectionate intimacy, and say to them, "You believe me dead, but I am not; circumstances have induced me to remain in obscurity and unknown. They may be easily explained, and I will tell them to you, if you desire it. Here I am. I presume you will receive me with the same affection and the same cordiality with which you would have received me in former days." The defendant says, "I did not do that which it

would have been natural for me to do, because I had received my mother's injunctions to see no one until I had seen her." That is quite intelligible. When and where he received those injunctions we do not very clearly know—certainly not after he set foot in England, because Lady Tichborne was at the time hourly expecting him in Paris, and in consequence did not write to him in London. He says it was by some letter he received when at Sydney; he said so on the former trial. He was asked if he could produce the letter? He says, "No, but I can get it;" and it would have been satisfactory to have seen that letter. But it never has been produced. Still, I am by no means, on that account, disposed to disbelieve the defendant, because it was in the very nature and character of Lady Tichborne to desire to keep her son entirely to herself, and to keep him away from his relations as much as she could. She hated the Tichbornes with a cordiality of hatred which nothing could exceed, and nothing would have pained her so much with regard to her son on his return to this country, as that they should take him to themselves, or even that any of the Seymours, though her own relations, should renew their relations with him. I can quite understand her having said to him in some letter she wrote to Australia, when you come to England or Europe mind you come to me; do not go and see anybody; do not trust yourself to any one; do not trust to any one's honesty, but come to me. I can quite understand that in her. But what about Roger? If ever there was a man who acted independently of his mother's control, and who would have rejected his mother's attempts to govern him, it was, as we know, Roger. The very last letter he wrote to his mother is one in which, you recollect, he begins by telling her he is weary of the eternal repetition of the obligations of duty which a son owes to a mother; that he is old enough to think and judge for himself, and he begs that he may no longer be troubled with such observations from her. That was only the crowning act of a long series of years in which he never in a single instance submitted to his mother's dictation or control. I doubt, therefore, from the character of Roger Tichborne, whether, if the mother had said, do not go near your Seymour uncles or your Seymour aunts; do not go near the Tichbornes; do not go near Gosford; he would at once have submitted to such dictation; and yet, in the circumstances in which he was placed, he might have felt himself constrained to submit to that which he would otherwise have scouted. He must have been quite aware that he was coming back under circumstances of very great difficulty; that he was very likely to be received after so many years of silence with distrust and suspicion. He entertained the belief, which Lady Tichborne had done her best to inculcate and instil, that upon her recognition depended entirely the success of the claim he was about to prefer.

"If I only acknowledge him," she declares, "all the world will acquiesce and everything will be smooth." He may have believed that, and therefore may have submitted to the government of the mother, which he would not otherwise have submitted to. I can, therefore, quite understand, notwithstanding what we know of Roger's character, that the defendant may have said to himself, If I had my way I should go and see Vincent Gosford and Henry Danby Seymour, and Lady Doughty ; but I must do as my mother tells me, because at the present moment I am in her power.

But, then, why does he not go to her? Why does he, in the first place, spend time at Gravesend? Why does he go from Gravesend to Alresford, spending his time at Alresford, driving about with Rous, or sending for Bogle, solely because, as he says (that is his explanation about sending for Bogle), the people at Alresford would have it that Bogle was dead and his annuity had been stopped in consequence of his death, and he was determined to show them, even if they did not believe Roger Tichborne was living in his person, that Bogle was still alive and flourishing, and he had him down to Alresford for that sole motive. That is a matter on which we must exercise our own judgment as to whether we believe it.

What, then, is the solution of the defendant going down to Alresford? What was the motive for going to Alresford, instead of going to seek his mother at once? He gives two explanations. In his evidence he says, "I went to Alresford to have a look at the place again," and in a letter to Lady Tichborne, written shortly afterwards, he writes, "I have been down to Alresford to have a look at the dear old place again." A very pretty bit of sentiment ; we do like to go and see places which are associated with our recollections of happy days we may have spent there in former times. I can quite understand that. But was this the motive? The other explanation he gives is that he had not the money to go to Paris. The answer to which is that he had money to go to Alresford, and money to have Bogle down to Alresford, and that the money he so spent would have taken him to Paris. Besides that, by the direction of Lady Tichborne, Mr. Bowker wrote on the 27th of December, having heard the defendant had arrived, addressing his letter to Ford's Hotel, so that it would be sure to reach the defendant, as he had Bogle and his secretary there to look after his letters—to say that he was directed by Lady Tichborne to put himself in communication with him, and to accompany him to Paris, so that if funds had been wanting Mr. Bowker, as her solicitor, would, of course, have found them. But finally (and this is the last observation), the defendant goes to Paris and takes with him Mr. Holmes and Mr. Leete, which could only have been done at considerable expense, and in the meantime he certainly had received

no funds from his mother, and therefore he had the means, from his own resources, or from the willing advances of Mr. Holmes, of going to Paris to see his mother, and at a very much earlier time than he went there. What, then, is the solution of his going to Alresford? If it had been simply "to see the dear old place again," the observation which suggests itself is that, although that may be a natural sentiment, a far more powerful motive in the way of sentiment would have been to go and see the dear old mother again who was anxiously awaiting and counting the hours for his arrival at Paris; therefore I cannot think that the sentiment thus put forward was the motive which really impelled him to go to Alresford. What then was it? If he is not Roger Tichborne I can easily give you the answer. If he is, I confess I cannot. For I cannot see the motive Roger Tichborne would have had in going to Alresford when he ought to have gone to his mother, who, we shall presently see, was in Paris impatiently looking forward to his arrival. The only motive I can see is this—and I throw it out for your consideration as one of the things that presents itself to one's mind in considering the probabilities of the case—that before the defendant went to Lady Tichborne he desired to acquire a knowledge of the localities at Tichborne, lest, in any conversation she might have with him about Tichborne, he might betray such an ignorance of things connected with Tichborne and Alresford, which Roger Tichborne would have known, as might excite suspicion and create distrust even in the mind of Lady Tichborne, however willing to believe in him. This is but a speculation, a conjecture, and it may be wrong; but it is the only hypothesis on which I can explain conduct which otherwise, I must say, appears incapable of explanation.

Gentlemen, we have now done with the visit to Alresford, and, therefore, we will conclude our business for the day.

ONE HUNDRED AND SEVENTY-SEVENTH DAY.

Wednesday, February 11, 1874.

THE LORD CHIEF JUSTICE: Gentlemen of the Jury,—We finished yesterday with the visit of the defendant to Alresford. Very soon after Bogle had made his report about the pictures and the house, as I assume he did, he and the defendant left Alresford, the latter going to Gravesend, and Bogle to Ford's Hotel. On the 4th of January the defendant writes to Rous as follows: "Clarendon Hotel Gravesend. Dear Rous. I expected my Mamma to arrived in

London today. But I have just received a letter from her, stating her intension to remain in Paris until I come there. So I shall start tomorrow for Paris. If my Solicitor Mr. Holmes writes to you, give him any information you can. And depend the same will be in perfect secreteey between us. I will write and let you know when Mamma and me are coming down before we start from London. Make inquiry of the Post Office for any letter or papers, that may be laying there for me. Has I believe there is some there. Give my respects to Dr. Lissome"—he means Dr. "Lipscombe," with whose name Roger Tichborne was familiar, and which one would not have expected the latter to transform into "Lissome"—"and tell him I should have availed myself of his kind offer, had I have known it sooner. I remain &c R. C. TICHBORNE 4/1/67." Though the defendant here intimates his intension to leave on the next day to join Lady Tichborne, several days more elapsed before he started for Paris.

About this time, the defendant being still at the Clarendon Hotel, Gravesend, Mr. Gosford went down to see him. The fame of his arrival, and of his having been at Alresford, had got abroad all over the country, and, of course, had created a very strong interest and curiosity in the minds of persons who had been previously well acquainted with Roger; and, naturally, Mr. Gosford, who had known him so intimately, and who would be deeply interested in the fact of his being alive and having returned to England, if that fact proved true, was very anxious to know whether the claimant was the real man or not, and he made up his mind to go down to Gravesend, where he had ascertained, I suppose at Ford's Hotel, that the claimant was. Unfortunately he conceived the plan, or circumstances induced him to adopt it, of taking with him Mr. Cullington, who had succeeded to Mr. Slaughter's business, and Mr. Plowden, who was a distant relation—a very unfortunate course to adopt, because it could not do otherwise than offend the defendant, that Mr. Gosford—though as an old friend of Roger's he might have come himself to see him—should bring a lawyer and a comparative stranger with him; and I must say the whole proceeding was about as rash and ill-advised, and improper, as can well be conceived. They had no possible right to disturb the privacy of the defendant, if he did not desire to be seen. It was for him, whether Roger or not, to exercise his discretion as to whom he chose to see, and as to when he would take the opportunity of seeing them. Mr. Gosford had no right to go down in that abrupt way, with two strangers, and attempt to force himself, either with or without them, on the defendant. Still less had they any possible or conceivable right to treat him in the way which it must be admitted they did upon that occasion treat him. He did not choose to see them; he made his way to his room, and

shut himself in. They insisted upon seeing him; made a disturbance; spoke disparagingly of him to the landlord, even suggesting that he had better take care of his spoons; talked about the police; and in short misbehaved and misconducted themselves—there is no use in mincing the matter. It was very unfortunate in all respects, and very ill-judged, as the sequel shows, because it gave the defendant ground to say: “I have been illused from the moment I set my foot on English ground by persons who professed to be interested on behalf of the Tichborne family. They came down and molested me, and conducted themselves in the most unbecoming manner; and, therefore, as I assume them to be representatives and exponents of the feelings of the family towards me, I shall keep aloof.” If they had let the defendant alone, and given him no such ground for saying he would not go near the family, and he had not gone, the inference arising from his not seeking his relations and friends, as a man naturally would on coming home, would have been infinitely stronger than it is. But, having said so much, one cannot, on the other hand, help observing that, although the defendant, if Roger, would have been perfectly justified in saying, “I do not want to see Mr. Cullington or Mr. Plowden, they are strangers to me,” he might well have said to Gosford, “if you, who knew me from a youth, want to see me, of course I shall be glad to receive you.” And one would have thought that, having Mr. Gosford there, he would have been glad to avail himself of the opportunity to renew old recollections and associations. However, he did not do that. Possibly it may be that he was indignant and angry at the way he was treated, and therefore declined to see Mr. Gosford. There is, however, an awkward circumstance connected with this, and that is his giving the note which he sent down stairs to Gosford. “Dear Sir I posted a note for you at Cannon St. to day address to the care of Mr. Cullington Mansfield St Cavendish Square. Pardon me Gentlemen but i did not wish any one to know where i was staying with my family And was much anoyed to see you all here. R. C. TICHBORNE.” Now we know that the note said to have been addressed to Mr. Gosford was not received, and we may doubt whether it was ever written, but let us have the defendant’s own explanation of the reason why he did not seek Mr. Gosford and would not see him: it is not merely that he was angry at this intrusion on his privacy, he gives another reason. He is asked the reason on cross-examination, and he says, “It occurs to me the particular reason was, I saw Sir Charles Clifford in Panama, who told me Mr. Gosford had sworn I was dead, and had proved my will.” Then he is asked, “You had left him executor, had not you?—I had. Q. And had never taken the smallest notice of anybody in this country, nor had anybody the slightest reason to believe that you were alive since 1854?—No; but I could not make out how

anybody could swear that I was dead when I was not. Q. Could not you?—No; nor now: I could not understand why he should protest that I died off Rio Janeiro. Q. Are you not aware that men swear to their beliefs?—I think not, in that court. Q. You think not, in the Court of Probate?—At least I have been informed such is not the case. Q. Do I understand you to say if you had not appeared for fifty years your observation would be equally strong, that you could not understand?—Just so; I do not understand a man could swear that another is dead unless he knows he is. Q. For the purpose of executing your will, of which you had left him executor and trustee, and carrying out the wishes you left behind you, he took proceedings to prove the will, and swear his belief in your death, and that surprises you?—Yes, most decidedly, to swear that I was dead. Q. Is that the reason you did not go to him?—I believe it was the principal reason. Q. Do you mean to swear that?—I mean to swear that is the reason I did not go to see him until I knew more about it.” Then Lord Chief Justice Bovill suggests that this is very strange, and says, “It seems that he would be the natural person to apply to?—Yes, my Lord, but having heard this, I certainly could not understand: I determined not to see him until I saw my mother, and knew more about it. The LORD CHIEF JUSTICE: It is only right to call your attention to it, to see whether you have any other reason to give.” The SOLICITOR-GENERAL: “Your most intimate friend, with whom you had never had a quarrel, and whom you left executor, and who had the disposition of your whole property—you never went near him?—No, I did not go near him.” Gentlemen, that explanation of not going to Mr. Gosford is, I must say, very unsatisfactory to my mind, as, for the reasons I have already explained, Mr. Gosford had no alternative but to prove the will, and of this the defendant, as a man of common sense, must have been aware; but I can quite understand, as I have said, that on the occasion of Mr. Gosford’s first visit he was angry, and therefore declined to see him.

The first visit having thus failed, it occurs to Mr. Gosford that if he went by himself the defendant would probably have less disinclination to see him, and accordingly on the 9th of January he goes to Gravesend again. He finds the defendant’s luggage all packed up, and in the hall of the Clarendon Hotel, and the defendant himself on the point of leaving. However, Mr. Gosford sees Mr. Holmes, and tells him he has come down for the purpose of seeing the defendant. Mr. Holmes no doubt felt it would look ill if the defendant refused to see Mr. Gosford, with whom Roger had been on such intimate and confidential terms, and he goes in and speaks to him, and induces him to see Mr. Gosford. Now the interview which took place, and the conversation which occurred in

the course of it, are certainly very material, because, as I have already pointed out, the knowledge or the ignorance which the defendant exhibits at the earlier stages of the history are far more important than what he knows or does not know at a later period. I will give you Mr. Gosford's account of the interview in his own words. "The defendant came in. He was shown in by Mr. Holmes, and as Mr. Holmes closed the door, he stood just inside of it with his cap in his hand, and in a most nervous state, twisting it round like this"—showing the way in which he twisted the cap—"I do not think I spoke for a few moments, because I was so scared with his appearance that I could not conceive the idea of his coming forward as Roger; however, I believe I advanced, and then he came forward and said, 'How do you do, Mr. Gosford?'—and held out his hand. I do not remember whether I took it or not, very likely I did, and then I said, 'Pray sit down: I should not have known you,' or 'I don't know you,' or 'I could not recognize you,' or something of the sort. And he did not speak, and seemed in a most uncomfortable, nervous state. I commenced some remark about Tichborne—such as, 'You will remember our old days at Tichborne, I dare say;' and he answered in some monosyllable, I do not exactly remember what, but he made no remark. I forget exactly the next question; but if not the next, I know I said shortly after, 'How is it you have not been to see the Seymours?' And he said, 'Oh, you mean my mamma's relations.' That struck me immediately, because Roger had never used the word 'mamma' since I had first known him in 1847, either in conversation or in writing; but I noticed it as it passed, and said, 'yes;' but he did not give any reason for not going to see them; and then I said, 'Do you know Mrs. Townley? You have not been to see her.'—'No,' he said, 'I do not remember Mrs. Townley.' I am sure he had never heard the name before; quite sure of it. His manner gave me that idea immediately. Q. Are you sure he said, 'I do not remember Mrs. Townley?'—I am. Then we got into further conversation. I think Mr. Holmes helped a little, but I do not remember exactly what he said; and then I asked him why he had not been to see Lady Doughty, and he said no, he had not. I forget how the questions and answers came, but I made notes at the time, and afterwards gave them to Mr. Cullington." MR. HAWKINS: "Let me ask you was anything said in this part of the conversation about his having gone to Tichborne, or about anything that had occurred at Tichborne?—Yes; he told me he had been down to Alresford, and volunteered directly, 'I have seen Hopkins and Lipscomb, and Hopkins recognized me from the window.' Those were his exact words." THE LORD CHIEF JUSTICE: "He said Hopkins recognized him from the window?—Yes, Hopkins recognized him from the window. That made such an impression on me

that I think the very next day I wrote straight to Mr. Hopkins to tell him this." Mr. HAWKINS: "Let us have the conversation first?—He further said he had seen the Stubbses and Etheridge at Alresford. He particularly mentioned the Stubbses and Etheridge. Q. Did he say anything about Etheridge?—He mentioned Etheridge. Q. Did he say whether or not Etheridge had recognized him?—He said—‘oh, yes, and they knew me at once.’ He said he had seen them at Alresford, and he made a further allusion to Etheridge. Q. What was that?—He said, ‘You remember I used to worry Etheridge’s cats with my dogs.’ I said, ‘No, I do not,’ and I immediately turned round on him and said, ‘What were the names of your dogs?’ And he could not remember a word. The names of those two pet dogs of Roger’s flashed upon my mind directly." Gentlemen, that is important if it took place as Mr. Gosford is telling us; because you will find by-and-by when I come to the evidence on the part of the defence, that his recollection of the dogs "Spring" and "Piccrust" was one of the things which led more than one witness to believe he must necessarily be Roger Tichborne—"Were the names of those two pet dogs well known about?—Well known to me, and to all about the house. Q. ‘Spring’ and ‘Piccrust’?—‘Spring’ and ‘Piccrust.’" Mr. JUSTICE LUSH: "When you asked him ‘What were the names of your dogs?’ did he make no answer, or say he could not remember?—He said he could not remember." Then Mr. Gosford goes on to say he tested him about Tichborne, and put to him pointedly, "Do you remember your horse ever running away?" and his answer was, "No, I do not." He continues, "I pressed him very hard upon that, because in connection with it there was a circumstance which it was impossible that any man alive could have forgotten." Then he tells us what that circumstance was. He and Roger had been riding out one day, and they were hastening across the country to get home, Sir Edward being always very punctual about the dinner hour, and they got their horses rather out of breath, and arriving at a steep hill going across the downs they jumped off their horses to breathe them while walking up the hill. When they got to the top of the hill they were getting into their saddles as fast as they could, and Roger, having rather a long pair of spurs, and getting up on his horse carelessly, touched its flank, which made the horse start off, and not having got properly into the saddle, his feet not being in the stirrups, he was not able to control the horse, and had to hang on as best he could. There happened to be a gate across the road into which they had just got; the horse went straight at the gate, knocked it down, and threw his rider very heavily, and Mr. Gosford was very much alarmed about him, and took him up. It turned out that there were no limbs broken, and they found their way home as best they

could. Mr. Gosford says he led up as nearly as possible to this accident without actually telling him what it was, but the defendant had not the slightest remembrance of it. He then put to him another circumstance, without telling him what it was—that of his horse running away with him out hunting in consequence of his hat falling off, when he had to throw himself off in order to get clear, and of that he says the defendant knew nothing. Then he says he asked him about Upton. And this, again, is an important point, if you place reliance on Mr. Gosford's statement, because the ignorance here exhibited stands in striking contrast with the knowledge of the same things which the defendant afterwards manifested to a witness who was satisfied as to his identity from the knowledge he exhibited. "Did you touch at all upon Upton, and his knowledge of Upton?—Yes, I asked him if he remembered Upton, and he said, 'I do not know much about it,' and I said, 'Do you remember the island?' That story of the poachers came into my mind at the moment, and I said, 'Do you remember the island?' and he said, 'I do not remember much about the island.' I do not believe he had ever heard there was an island before. It gave me that impression. Q. However, that is what he said?—Yes, that is what he said. I led up to the subject of the poachers there again. Q. You say you called his attention and referred to that poaching matter?—Yes, and the island. I asked him if he remembered the island, and if he could remember a particular circumstance occurring at the island, and he could not remember anything, and I did not tell him."

Then he puts what was certainly a very crucial question. Mr. Slaughter, who was dead at this time, and had been succeeded by Mr. Cullington, who had become his partner, had been the confidential solicitor of Roger, and drew his will for him, and was one of the executors of that will. Mr. Gosford says, "I put the question to him, 'Do you remember Slaughter? He seemed quite to hesitate, and then said, 'I do not remember Slaughter.' I said, 'Can you tell me who made your will?' He hesitated, and then Mr. Holmes made some exclamation, or gave a look at him, I do not recollect what, but I know it was a little interruption, and it made him say, 'Oh! Mr. Hopkins, of course.'" Gentlemen, we know Mr. Hopkins did not make his will. Mr. Slaughter made his will. Roger purposely avoided Mr. Hopkins, because he wished to make a will which should remain wholly unknown to his father and uncle. He knew well that Mr. Hopkins was in their confidence. Moreover, he did not like Mr. Hopkins. I say so, because I remember a passage in one of the gossiping letters of Lady Doughty, which I do not think I troubled you with reading, in which, having been made aware that on leaving Tichborne, I think to go to Ireland, Roger had travelled to London or somewhere with Mr. Dunn, of the firm of Dunn and

Hopkins, she laughingly alludes to it, and says, "I was very much amused at your travelling in the same carriage with Mr. Dunn, knowing your love for the firm of Dunn & Hopkins," of course implying the reverse. He had not gone to Mr. Hopkins, but to Mr. Slaughter, and if Mr. Gosford is correct as to that conversation, Roger could not well have made a mistake on a matter which must have been so completely within his knowledge. I can understand that the defendant, if not Roger, could have made such a mistake; because so far as he had knowledge at that time as to who had been the lawyer of the Tichborne family, he would know it had been Mr. Hopkins. He had been staying in the house of Mr. Rous, who had been clerk to Mr. Hopkins, and he would there learn that Hopkins had been the family attorney, and so, naturally enough, he might conclude that Mr. Hopkins had made the will, when in point of fact we know that he had had nothing to do with the will. Then Mr. Gosford lays a little snare for him and says, "Do you remember Cullington?—Oh, yes, I remember Cullington." This was a trap, and he fell into it, because in fact Roger never knew Mr. Cullington. At the time he went away Mr. Slaughter had not Mr. Cullington as a partner. Mr. Cullington did not become a partner until some time after Roger left; and he therefore could know nothing about Mr. Cullington. Then Mr. Gosford asks him about Moore, and where he had left Moore, and says that his answer was, "At Monte Video." Now that is a mistake which you would hardly suppose Roger would have made. Moore remained at Santiago on Roger's first visit to that place, before Roger even went northwards to Peru, and he never went to Monte Video at all. He was next asked, "How did you get there?" He answered, "By ship, of course." Then Mr. Gosford says, "Of course I knew that he could not have got to Monte Video by any other mode." Q. "You mean from Buenos Ayres?—Yes, I knew that; but what made me ask the question was to see whether he would allude to Roger's ride across the Pampas, because that was a remarkable ride which he would naturally have alluded to."

Mr. HAWKINS: "Was there any allusion made to that?—Not the slightest; that was the point I wanted to draw from him, because I thought it was a thing he would naturally have mentioned. A man who would send me back, as Roger did, the very boots and leathers that he rode across the Pampas in, would have been likely to have remembered that when I alluded to it again. I made a further allusion to Moore. He said, 'I should like to see John Moore,' and I made no remark to that: I thought it was likely enough he would see him. Q. Was any reference made by you to any things that had been sent over by Roger?—Yes, I asked him if he remembered sending me any boxes from South America." You will recollect that Roger sent him from Lima two boxes containing stuffed birds and

curiosities he had picked up in his travels in South America: we had the bill of lading of those boxes put in—"I asked him if he remembered sending me any boxes from South America. What did he say to that?—He said distinctly he did not remember." Mr. Gosford says he asked him whether he remembered the horse he had left in England. "I asked him if he remembered it, and he knew nothing at all about it." I think there must be some inaccuracy here, and that the question could not have been put in that general form, but must have had reference to the character or the description of the horse, and my reason for saying so is this—whether Roger or not, the defendant knew, either as Roger or from some extraneous source, that Roger had left a horse in England, because he mentions it in that part of the letter to Lady Tichborne which is not forthcoming, but which Mr. Gibbes saw and tells us that it did contain some reference to the horse, mentioning the horse as "Plenipo"—the observation upon which is,—that although he left the horse to be taken care of till his return, as a favourite horse which he desired to keep, that horse was never called Plenipo. So we have here one of those curious combinations of knowledge and want of knowledge which the defendant so often exhibits.

That is the conversation which, so far as Mr. Gosford remembers it, took place while they were still in the hotel. The time had come to leave for the train, as the defendant was coming up to town, and they travelled together. They found some stranger in the carriage, who on being requested by Mr. Holmes to be good enough to leave, as they had confidential matters to talk about, was courteous enough to do so, and they had a conversation amongst them while coming up. Mr. Gosford says, "I do not remember what we began with, but I remember as we went along he turned to me in a moment, and said, 'How's Percival?' and it did not occur to me for a moment whom could he mean, and I said, 'Who?'—'Percival Radcliffe,' he said. 'Oh,' I said, 'he is very well;' but the question struck me immensely, because all the years I have had the pleasure and honour of knowing Mr. Radcliffe, I never heard any individual soul call him anything but Percy among his friends. The name of Percival I do not suppose he was called in his life by anybody who knew him intimately. Q. How did Roger call him?—Roger never knew him to my knowledge. Although they were known to one another earlier, it was before I knew Tichborne; and during the time I knew Roger at Tichborne I do not remember Mr. Radcliffe being intimate there at all. I do not remember Roger and Mr. Radcliffe ever meeting at Tichborne." We know they never did meet but once, and that was in the early part of the year 1848, when from Stonyhurst Roger paid a visit to Burton Constable, Sir Clifford Constable's place, on which occasion they joined in the theatricals there, and both played the part of French

students. That being so, Roger could not have known Sir Percival, at that time Mr. Radcliffe, very intimately. But it may be said, "How should the defendant know anything about Percival Radcliffe so as to be induced to ask after him?" That, I think, admits of an easy solution. Looking at the 'Baronetage' at Sydney he would at once find that the only daughter of Sir Edward Doughty, Katherine Doughty, had married Mr. Percival Radcliffe. That, of course, would afford him information upon that head, so that he would know enough to ask, "How is Percival Radcliffe?" although it might be a somewhat remarkable question, inasmuch as he had not seen Percival Radcliffe from the beginning of the year 1848, and therefore could not feel any particular interest in the health of that gentleman.

Now comes a very remarkable answer, if Mr. Gosford is correct. He is asked: "Was Canterbury made the subject of the conversation?—Yes. He was silent as we came along half the distance, and I kept thinking, and at last Canterbury came into my mind, and I said, 'By-the-by, you were quartered once in this county,' and he said 'No,' and I said 'Why don't you remember Canterbury?' and he said 'Yes; but I had forgotten Canterbury was in Kent.'" Well, most people know that Canterbury is in Kent, whether they have been quartered there or not, but that a man who had been quartered there for many months should not know it, would certainly be somewhat striking. Then Mr. Hawkins says: "Was there anything more about it?—Then I think I asked him about Ireland. I am not quite sure whether the previous conversation about his regiment had not occurred in the hotel, but it was either in the carriage or in the hotel; and I asked him where he was quartered in Ireland, and he said 'Dublin,' and I said 'Where else?' and he could not remember anywhere else, and I thought of that accident to his groom at Cahir; and I said, 'Don't you remember anywhere else?' and pressed him, and then he said 'At the Curragh of Kildare;'—those were the very words he uttered; and I recollected in my own mind that the Curragh never had been formed in those days, nor was it. The Carabineers might have been quartered in Newbridge, but whether they were or not I do not know." Here, again, we have a staggering fact if that answer was made. For the Curragh of Kildare was not adopted as a place for the training of troops until some time after Roger went away. But the learned counsel suggested that the Carabineers might have been exercised on the Curragh of Kildare, the Curragh being in the vicinity of Newbridge, a place at which, even before the formation of the Curragh of Kildare for military purposes, a cavalry regiment was frequently stationed. Yes, no doubt, if the Carabineers were stationed at Newbridge or anywhere in the neighbourhood; but we know where the Carabineers were stationed during the whole time Roger was in the regiment,

and they never were at Newbridge, and therefore could not have exercised on the Curragh of Kildare; and the Curragh, used like Aldershot in this country, for the purpose of a camp, was not formed and so used until after Roger had entirely left the army and England. So that if the defendant said the "Curragh of Kildare" it must have been that he had seen that the Curragh was a place where troops were encamped and exercised, and he must have said it on the supposition that the Curragh had been used for that purpose at an earlier period. Then Mr. Gosford is asked: "Did you speak at all of the name of the colonel?—Yes, I asked him whether he remembered the name of the colonel, because I remembered the name of Colonel Jackson; that made me ask the question; but he did not remember, and could not give me any name. Mr. HAWKINS: When you asked the name of the colonel what did he say?—He said he could not remember; he gave me no name, and I gave him none. Q. Do you remember his referring to any accident that had happened in Ireland about one of his horses?—Yes, I asked him"—now this is very important, because this incident is one of the things which several of the Carabineers put to him, and his answer as to which convinced them that he was Roger Tichborne—"I asked him if he remembered anything happening on the occasion of his charger running away, because I had that incident of poor Clark in my memory at the time, and he could not give any answer. He did not recollect anything. Q. Are you sure you used the word charger?—Quite sure; I am certain I used that, because it was always described as his charger in Roger's letters, and in any mention of the circumstance. Q. He could not remember anything of it?—He could not remember anything whatever. Q. He said so?—Yes, he could not remember; that is what he said to most things. I did not relate that circumstance to him either."

So much for the questions put by Mr. Gosford; the next thing is a question put by the defendant himself: Mr. Gosford says, "He asked me if I remembered the grey pony his uncle used to drive. That made an impression on me. Q. What did you say to that?—I said 'I do not remember it;' I did not enlighten him about the pony. That subject dropped; almost every topic was brief—question and answer. Q. You told me, speaking of Etheridge's cats, that that had been mentioned to you by another person?—Yes. Q. Had the grey pony been mentioned by another person?—Yes, both that and the cats; and that very thing struck me when the defendant here asked me first the same questions." Then I asked: "Who was the person who had mentioned that to you?—Bogle, my Lord, at Ford's Hotel, when I questioned him about the incidents of the voyage." Then my Brother MELLOR says: "He mentioned the cat?—Yes; Bogle told me he often mentioned my name on the voyage, and that he remembered worrying Etheridge's cats." Q. He said it had been

mentioned frequently on the voyage?—Yes. Q. By whom?—My name had by the defendant; when I questioned him about whether he had talked much to him, he said he frequently mentioned my name, and he remembered the incident of worrying Etheridge's cats. Q. He had mentioned this on the voyage?—Yes.” Then my Brother LUSH says: “And so about the grey pony?—And so about the grey pony; that made a great impression on my mind. All these questions were volunteered by the defendant.” Now Bogle told us that he had no conversation with the defendant on the voyage home. If Mr. Gosford is right, Bogle could not have told us the truth in that particular; and I cannot help saying I think it seems highly improbable than that, coming home all the way from Sydney to Panama, many thousands of miles, and staying at Panama for a month, and coming from Panama to New York, and staying at New York a month, and coming from New York to England, Bogle and the defendant should not have had conversation about Tichborne and former times. It certainly strikes me as singularly improbable. Then the witness is further asked: “Do you remember anything being said about leave-taking before he went aboard?—Yes, that was another thing that struck me. He said, ‘Do you remember my going over with you to Tichborne to take leave of my uncle and aunt before I left?’ The LORD CHIEF JUSTICE: “The defendant said that?—Yes, the defendant said that.” Gentlemen, I was very much struck by that statement, and I cannot help being so now, because, having carefully perused Roger's letters, I know very well that he did not go to Tichborne to take leave. I remember that in one of his last letters to Mr. Gosford before leaving England, he said in substance—I have not the letter at hand, and do not remember the precise words—“My aunt is pressing me to come and see my uncle”—at that time his uncle was desperately ill, and in fact died soon afterwards—“but I won't go; she is going to take my cousin to Wardour, in order that I may not see her when I go to Tichborne, and under those circumstances I will not go.” You will remember our discussing that as one of the things in Roger's character that made against him—that although his uncle had been a second father to him, and he knew he was dying, he was in so sullen a temper about being kept from seeing his cousin that he would not go and say a last farewell to the uncle whom he was never to see again. The witness continues: “I said, ‘I do not remember,’ because it was fully in my memory that he did not come. Q. You knew he had not come?—I knew he had not, but I did not give him a flat contradiction. I said, ‘I do not remember,’ because I carried out the idea I had formed all through, that I would hear the whole of what he had to say. There was another question he asked me just at the same time. He volunteered that, too. He said, ‘You remember that man that

used to come over from Winchester to clean the pictures?' It occurred to me immediately who he meant, and I said, 'What is his name?' and he could not remember his name, but said it was a one-eyed man that used to come over from Winchester. That fixed itself very strongly in my memory. He made a further remark at the same time about Southampton. He said, 'You remember coming down to Southampton with me to see me on board?' and I said 'No; I did not go with you to see you on board.' I contradicted him there, on which he said, 'Do not you remember my giving the priest there some silver for the poor before I went away?' I said, 'No, I was not there.' I am not quite sure he did not mention the name of the priest. Q. You are not sure about that?—No: I think he did, but as I am not quite sure perhaps I had better not say it: I know who the priest was. Q. Do you remember any other conversation before you arrived at the station?—I do not just at the moment. Q. Now during that time did you notice at all, in the course of this conversation, the mode in which any of his words were pronounced?—Oh, yes; his language was constantly just the language one hears amongst workmen, such as 'I 'eered' so and so, and expressions like that, and his mode of expressing himself altogether was that of a person of very low station—of very low associates."

Such is Mr. Gosford's account of that interview, and what passed at it. For the reasons I have pointed out to you the evidence is important, if you can place perfect reliance upon it; but we are bound to hear what the defendant has to say with reference to the conversation at this interview, because, in anticipation of Mr. Gosford being afterwards called, he was cross-examined as to it: "Did Mr. Gosford and you talk about Tichborne?—We did. Q. Did you say you had been to Tichborne, and that Mr. Hopkins and Mr. Lipscombe had recognised you?—I did not. Q. Mr. Hopkins from a window?—I did not; how could I have said that? I had not seen Mr. Lipscombe up to that time. Q. Did Mr. Gosford ask you if you recollected riding with him on one occasion, and your horse running away with you?—Well, I do not recollect. Q. And did you say you could not remember anything about it?—I cannot say I recollect what the general conversation was: All I know is this"—Then the Solicitor-General interposes, and says, "I am putting particular things to you. Did he ask you, 'How is it that you have not called on any of your relations?'—He did not. Q. Did he say, 'How is it you have not called upon the Seymour family?'—He did not. Q. Did he say, 'Do you recollect Mrs. Townley?'—He never mentioned Mrs. Townley's name. Q. And did you say, 'No, I do not remember Mrs. Townley?'—No. Q. Did he ask you why you had not been to see Lady Doughty?—He did not. Q. Did Mr. Gosford say anything to you about

Upton?—Yes, I think we had some conversation about Upton. Q. Did he say to you, ‘I suppose you remember the island at Upton?’ and did you say ‘No’?—Remember what? Q. The island at Upton?—He never spoke of the island at Upton. Q. I am putting it to you, the island at Upton?—Yes, I know what island you mean. Q. In connection with Upton?—Yes,”—there is a blank in the printed evidence here, some island—“I know what you mean: we mean the same thing. Q. Did he ask you whether you recollected the island?—He did not. Q. And did you say ‘No’?—He never spoke of the island at all? Q. Did he say to you, ‘Cannot you recollect a particular thing that happened about the island;’ and did you say ‘No’?—I have no recollection of his speaking of the island at all, and I do not think he did. Q. You do not think he did?—I am sure he did not. Q. Did he ask you whether you recollected Mr. Slaughter?—Yes, I think he did speak of Mr. Slaughter. Q. He did mention Mr. Slaughter?—Yes. Q. And did you say ‘No’?—I certainly did not. Q. Did he then say, ‘Do you recollect Mr. Cullington,’ and did you say, ‘Oh, yes, I remember Mr. Cullington’?—I certainly did not, because I had ascertained in London before that, that Mr. Slaughter was dead, or otherwise I should have gone directly to him, but not knowing Mr. Cullington is the reason why I did not go.” Then there are two or three questions about that, and then—“However, you did not go to him?—I did not. Q. How did you ascertain that Mr. Slaughter was dead, and that Mr. Cullington was his successor?—Mr. Rous told me, I think. Q. Do you recollect his saying to you anything about a horse? Do you recollect his asking you whether you remembered a horse that you had left with him?—Yes. Q. And did you say ‘No’?—No, I certainly did not say ‘No.’ Q. Did he ask you about your will?—Do not let us go from the horse; when he spoke about the horse I said ‘Yes;’ and I can tell you the last words I spoke to him about that horse, and that was if I should not come back for seven years he was not to part with him; those were my last words to Mr. Gosford.” Unfortunately Mr. Gosford was not asked as to that particular passage. “Q. Did he then say, ‘By-the-way, you recollect your will, you remember who made your will?’ Did he say that to you?—He spoke about the will, and we conversed about the will. Q. Did he ask you who made it?—No, he did not; but I said, ‘By-the-by, speaking of the will, who was it proved my death, because,’ I said, ‘I cannot understand how any one could go and swear.’ Q. Before you go to your own account, just tell me whether he asked you whether you remembered who made your will?—No, he did not. Q. Did he press you about the will, and say, ‘Surely, you can recollect who made your will;’ and did you say, ‘Oh, Mr. Hopkins, of course?’—I did not. Q. Nothing of that sort?—

No, he asked me several questions about the contents of the will, which I answered; and then I asked him who it was that had proved my will, and he said he did not know. I said, 'What, do you mean to tell me, as executor to the will, you do not know who proved it?' and he said he did not; and the next day at Doctors' Commons, I went with Mr. Holmes and another gentleman, and to my great surprise I found it was Mr. Gosford himself who had proved it. Q. Well, he was the executor?—Yes. Q. Do you mean to say Mr. Gosford told you, the will having been proved, that he did not know who proved it?—I mean to say Mr. Gosford told me, and I positively swear it, that he knew not who had proved my death. Q. I do not want to catch you, but death is different from will?—Well, I mean that. Q. He said he did not know who had proved the will?—Yes, those were his words. Q. He being the executor?—He being the executor; I had not spoken to Mr. Holmes anything about the will. Q. Will you undertake to swear you did not at that interview, when pressed by him to the effect, 'Surely you can recollect who made your will?' will you undertake to say you did not answer him, 'Why, Mr. Hopkins, of course?'—I will undertake to swear he never asked me a question. Q. Was Mr. Hopkins' name mentioned between you?—Oh, very possibly it was. Q. In connection with the will?—I think not. Q. Will you swear it was not?—Yes, I will swear it was not mentioned in connection with the will. Q. You will swear you did not say to him, 'Hopkins, of course,' in answer to some question, put in some form, as to who made your will?—No, I did not. Q. Eh?—I did not say 'Hopkins.'" Gentlemen, as to this you must judge between the two; they are directly at issue, and one or the other must be swearing falsely.

Then he is further asked about Etheridge: "You told us yesterday about Etheridge and the cat. Do you recollect saying anything about Etheridge and the cat to Mr. Gosford?—No; Etheridge and the cat was not mentioned to Mr. Gosford. Q. Did he ask you the names of your dogs?—I cannot say whether he did or not. Q. Could you tell him?—Yes, I should think there is no doubt I could tell him. Q. Could you?—I do not remember the question being asked. Q. I am just going to ask: did not he ask you the names of your dogs, the names you have since told us, and did not you say you could not remember them?—I think not; I have no recollection of him asking the question. Q. But you will not go beyond that?—No; it is impossible for me to tell you the whole of the conversation that passed in about three and a half hours. Q. Did you give him either of those dogs, or ever give him a dog at all?—Yes, I did; I gave him a little rough-haired bitch, just before I went away; none of the dogs mentioned up to the present date; I have never thought of it

until you have now asked me the question. *Q.* ‘A little rough-haired bitch, just before I went away.’ What was its name, do you remember?—*Ruff.* *Q.* A little rough-haired bitch; that you are sure?—That I am positive of; yes. *Q.* Do you recollect saying to him, ‘You recollect that grey pony my uncle used to drive?’—Grey what? *Q.* ‘You recollect that grey pony my uncle used to drive?’—No, I never said anything about a grey pony; I never recollect my uncle driving a grey pony. *Q.* Did you say to him, ‘You remember that grey pony my uncle used to drive?’—No, I did not. *Q.* Did he say, ‘I do not,’ and did you say then, ‘Yes, but he did,’ or persist in it, and did Mr. Gosford say still, ‘Well, I do not recollect it; it may have been so,’ or something to that effect, ‘but I do not recollect it?’—No, not at all; the grey pony I asked him about was Alfred’s grey pony, the one that Mr. Seymour gave him; I asked what had become of him. *Q.* What had become of him, did you?—Yes. *Q.* Then you are sure he did not deny recollecting anything about a grey pony that your uncle, that is, Sir Edward Doughty, I suppose, had driven, and you persisted in saying there was such a grey pony, and he persisted in saying there might have been, but he did not recollect it?—No. *Q.* Did you then turn to him and say, ‘How is Percival?’—Percival! Percival! who’s he? *Q.* That is the question I was going to ask you: did you say, ‘How is Percival?’—No, certainly not: I never asked him the question. *Q.* Did he say, ‘Well, he is quite well?’—No, I never knew any one of the name of Percival that I know of; I do not recollect any one of the name of Percival. There is Percival Radcliffe, but I did not know him. I know Mr. Radcliffe’s name was Percival, but I did not know it then.”

He is next asked as to the conversation in the railway carriage. “Do you recollect Canterbury being mentioned, and his asking you, ‘Do you recollect being quartered in this county?’—What county? *Q.* When you were coming from Gravesend to London, you would have been most part of the time in Kent, you know?—No, I do not recollect him asking. *Q.* And did you say, ‘No, I do not remember it,’ and did he say, ‘Why, surely you remember Canterbury?’—He did not. *Q.* And did you say, ‘Yes, but I did not know Canterbury was in Kent?’—Well, certainly, I did not say that. *Q.* Well, but you might have forgotten it?—No, I did not forget that. *Q.* Did he ask you where you were quartered in Ireland?—I do not think he spoke about Ireland: I have no recollection of it. *Q.* Did he ask you where you were quartered in Ireland, and did you say in answer, ‘Well, I was a good deal in Dublin?’—Probably if he had asked me I should have made that remark. *Q.* And did he say, ‘Where else in Ireland besides Dublin?’—I do not remember his speaking of Ireland at all. *Q.* And did you say, ‘At the Curragh

of Kildare?’—No, I certainly did not. *Q.* Did he press you a good deal about Ireland?—No, I do not remember. *Q.* Could you give him any other names but Dublin and the Curragh of Kildare?—I do not remember him speaking of Ireland at all. *Q.* I suggest to you he spoke to you a good deal about Ireland?—I deny that to be the case. *Q.* And you said you had been a good deal in Dublin and the Curragh of Kildare; is that true?—No, it is not true. *Q.* Did you mention anything about Ireland to him, to the best of your recollection?—No, I have no recollection of Ireland being spoken about at all. *Q.* Did he ask you the name of your colonel?—No, he did not. *Q.* Could you tell him the name of your colonel?—I could have done so if he had asked me. *Q.* But do you recollect his asking you?—I do not recollect his asking me. *Q.* Did he ask you at all about your life in the army?—I think not. *Q.* You think not?—No, I do not think he did. *Q.* I ask you whether he did not ask you whether you could give him the name of your colonel, your commanding officer?—No, he did not. *Q.* And whether you were not unable to give it to him?—No, it is certainly not the case. *Q.* Did he ask you whether you recollected anything particular about a horse running away?—Where, at Tichborne? *Q.* No, a horse running away while you were in Ireland in the regiment?—No, he did not speak about Ireland. *Q.* Did you say you could not recollect?—I did not. *Q.* Did you say that Moore left you at Monte Video?—No, I certainly did not. *Q.* Did he ask you whether you recollected sending him a quantity of packages from South America?—Sending who? *Q.* Sending Mr. Gosford?—Yes. *Q.* He did ask you that? No, I asked him. *Q.* Did he ask you whether you recollected sending him a quantity of packages from South Australia?—No, I think it was the other way; I think I told him. *Q.* And did you say you did not remember it?—No, I did not. *Q.* Did he ask you how you got from Chili to Rio?—He did not. *Q.* And did you say, ‘Why, by ship of course?’—I did not.” And then he adds: “It appears to me it is a very fortunate thing that some one was in the railway carriage at the time.” Well, that some one else who was in the carriage at the time was Mr. Holmes. Neither party has thought proper to put Mr. Holmes into the witness-box, otherwise Mr. Holmes could have told us on which side the truth lay as to this conversation which I am sure you will think very material to the present inquiry.

It stands therefore, gentlemen, on the conflict of evidence between Mr. Gosford and the defendant. Strong observations, cruel observations, have been made about Mr. Gosford. Mr. Gosford no doubt stands in a painful position. He was the steward of this estate; he is indebted in several thousand pounds to it, and that appears to have arisen principally from the loose way of keeping the accounts between the steward and the estate. He was allowed to carry every-

thing to his own private account with the local banker in the country. He entered into speculations—I mean in agricultural affairs—which turned out unfortunate. His credit was suddenly stopped by the bankers, who had previously allowed him to overdraw his account, and it turned out that he was unable to satisfy his debt to the estate. That is a painful position for a man to find himself placed in, not only because he owes a large sum which he cannot pay, but because that debt arises from dealing with the money which he received as steward, in trust for his employer, in an irregular and certainly an improper manner. But when the learned counsel asked you to look upon him as a felon—for that was the term he used—as having been guilty of embezzlement, and further suggested that he had given false evidence against the defendant because his testimony had been bought in consideration of his not being prosecuted by those to whom he was indebted; and that under the influence of this motive, instead of accepting the defendant, he denounces him as an impostor, and comes here to swear things against him which are untrue, I cannot help thinking that you must have shared in the indignation—the just and honest indignation—which I know we upon this Bench, and I doubt not every right-minded person who heard those imputations made, naturally felt, at charges so unjust and so unworthy as coming from a gentleman of the bar. Mr. Gosford may have been mistaken as to the identity of the defendant; but he came away with a conviction that the defendant was not Roger Tichborne. Whether that conviction was right or not it is for you, upon a review of all the circumstances of this case, to form your judgment. Mr. Gosford may have been mistaken, but to suppose that under the influence of so base and wicked a motive as that which has been suggested, he comes here to swear falsely upon his oath, is, I cannot help thinking, a very unjust and improper imputation to make against him. One thing I think is perfectly clear, and that is, that Mr. Gosford's interest was to find Roger in the defendant if he possibly could. He was in difficulties; he owed money he could not pay; he knew perfectly well that if he ever was in a position to pay, the trustees under the will would be bound and compelled to force him to pay; but if Roger came back, the estates would be his, and there would be an end of all the trusts. If there were any debt to the estate, it would be a debt to him; and his old confidential friend to whom he had trusted every secret of his heart, and with whom he had been on such terms of unreserved intimacy and friendship, might naturally expect that from Roger, if he could find him and acknowledge him, he would receive an absolute and unconditional remission of everything that he might owe, or at all events, such facilities for its payment as would relieve him from the distressing position in which he was placed; besides which, he

would in all probability be restored to his post as steward, and instead of being without employment—almost without subsistence—having been living on the support of his friends—he would have been restored to the employment he had occupied before, and which, if not a lucrative one, was still such as would satisfy his wants. That that was the feeling of his wife there can be no question from the letter written by herself which was put in. The rest of the correspondence between them was stopped—unfortunately, as otherwise we should have got to the bottom of this domestic confidence, and should have known what were the feelings and wishes of the Gosfords with reference to Roger Tichborne's return. We have no letters written after the second interview. They were excluded as not being strictly admissible. The learned counsel for the defendant let in this one, on account of the observations in it relative to the handwriting, but disingenuously stopped the rest. She writes: "My dearest Hub, I was indeed thankful to get your letter last night by George when he returned from meeting the evening train which I sent him to as well as the morning one. Our post never came in until the middle of dinner, and then seeing no letter worried me much, dreading accidents with the wild weather we had, and the stoppages in all directions. You have not told me a single thing which induces me to believe this Sir Roger an impostor, but it is most trying not to be able to settle the point one way or the other. Why did you not go alone to Gravesend?"—She felt, you see, the imprudence and perhaps the impropriety of taking down an attorney and a stranger, when, if he had gone alone he might have had a quiet interview—"I can quite fancy Sir Roger wishing for some time to keep quiet and prevent a lot of inquisitive people from bothering him who would only haunt him out of curiosity—he has a great deal to inquire about, and from being so long completely out of the world of England, feels at a loss in many ways"—She is trying to reconcile herself to this concealment and secrecy which was one of her husband's reasons for concluding that the defendant was not Roger—"It is just like that Cullington," she says, "sticking his nose into everything. I cannot yet think so badly of poor old Bogle. You see you have decided in your mind that it *can't* be Sir Roger and you look at everything under this belief—instead of balancing both sides of the question equally. Did you get the letter he said he posted for you in Cannon Street? The writing is decidedly like his in the note you sent me—the signature perfect."—Mr. Gosford had sent her some of the handwriting to look at, and she is quite satisfied that it is Roger's. Nothing could show more strongly the great anxiety of this lady to find Roger Tichborne in the defendant; for if there is anything clear and certain in this case, it is that there is not the faintest trace of resemblance between the signature of the defendant and that of the undoubted Roger Tichborne. It would

scarcely be possible for two writings of the same name to be more dissimilar—She continues: “*Do* have a *private interview* and don’t decide that it is *not* him till you have done so. You could easily manage it quietly through old Bogle. I shall not at all expect you to morrow, and trust indeed that you will not come till you have established the truth or falsehood of the case completely. I sent a note to Sir Pyers, who is much interested, as is everybody else here. I cannot sleep at night for thinking of it.” It is quite clear which way her feelings and wishes pointed. Then there are things connected with domestic matters which I pass over as being quite foreign to this case. Dr. Kenealy made the most of what she had written about the handwriting. He asks her on cross-examination, “Do you know the handwriting of Roger Tichborne well?—I had not seen it then for years; my recollection of it was that it was a very great scrawl, and I had great difficulty in making it out, but on comparison afterwards I found it was very unlike indeed. Q. But at first you expressed your opinion?—I was so willing to believe it was poor Roger, that I was anxious my husband should find out all about it.” Then I say: “Your inclination, as I understand, was all one way?—It was, my lord, at first.” Gentlemen, you must deal with this matter, but to me it seems very plain that Mr. Gosford’s interest was in the same direction that his wife felt it was, and in the same direction that her wishes evidently pointed to. What if Gosford had said, “Well, you are my old friend Roger: I will tell you how I am circumstanced, and I trust to you to set me straight with the world.” I cannot help strongly suspecting what the answer would have been. What do you think? Do you think the defendant, if Mr. Gosford had been willing to range himself on his side, would not gladly, whether Roger or not, have said, “I accept you as my old friend, and I shall replace you in the position you would have occupied if I had not gone away.” My Learned Brother LUSH suggests to me, and it is an observation I ought to have made to you, of what immense importance it was to the defendant, that Mr. Gosford should range himself on his side. If the confidential steward, the friend, the confidant, the man to whom he had unreservedly unbosomed himself on every possible subject, who knew Roger better than anybody else on the face of the earth, so far as the interior of Roger was concerned—if that man had said, “This is Roger Tichborne,” imagine the tower of strength which that would at once have raised in favour of the defendant. Mr. Gosford might, therefore, well expect every possible advantage to accrue to himself from acknowledging the defendant, and if he had been determined in his course of conduct, either in accepting or denying the defendant as Roger, by a view to his own advantage, his interest obviously lay in accepting and

admitting the identity, rather than in declaring himself in favour of the other side?

Thus ended the interview with Mr. Gosford, and the defendant, having left Gravesend and gone to London, writes on the 9th of January this account of it to Lady Tichborne. "International Hotel (late Terminus) London Bridge S.E., Jan. 9th 1867. Dear and Beloved mamma I am here and am prevented by circumstance from coming to see you. do come over and see me. at once. and I will not go out of the Hotel until you come. I have been down to tichborne. and had a look at the dear old place once more. and it made my heart bleed to look at the distruckion there has been made there."—he had not seen it, you know, because the destruction was inside the house; he must have learnt it from some outward source,—“but has my poor Brother is dead we will not mension that subject again. let the past be past and no more about it. I have seen Mr. Gosford. he seems very much change to what he use to be. he came down in the train from Gravesend last night. I had a long talk with him. and he seemes to deny every thing i put him in mind of. He says he do not remember me coming down in the coach from London with me to tichborne. I had a hour conversation with him about different things Mamma that no body in the world could have told him but me. I even told him under what cirenmstance Moore came left me. You must remember Mamma i wrote to him from allmost every place. a Cullington and a lot more would insist on seeing me at Gravesend when they came. and because i did not wish to see them until i had seen you they where very angry. Oh do come at once to the hotel mamma. and I will not go out until you come Everything will be explained when you come. it dangerous for me to go out. has some of the Bills i drew in sydney are due and i believe they intend to arrest me. if i attemp to leave England. so do come at once mamma. I did not receve an answer to the telegram i sent from new york.”—both words with small letters—“Hoping i will not have to wait long before i see you, I remain your ever affectionate”—then in one line—“Son, R. C. Tichborne.” There are twenty-two printed lines in that letter, and there are nine small i's, seven mis-spellings, eight mistakes in grammar, and five names of places written with small letters, where they should be large. That letter is written on the 9th, and in it you see he presses Lady Tichborne strongly to come over, saying that circumstances prevent his coming to Paris. Why that letter should have been written on the 9th, pressing her to come over, seeing that he started for Paris on the next day, the 10th, I do not know. He takes care to tell her he has been down to Alresford to look at “the dear old place.” Whether it was that at this time he was known to have been to Alresford, and it might strike her as odd

that he had been there instead of coming at once to Paris, I do not know. Mr. Bowker had become aware of it, having been told by the secretary, and very likely might have informed her; and it might seem strange to the mother that he should go down there first. Therefore he mentions it in his letter, and ascribes it to a sort of yearning to see what he calls "the dear old place" once more. I do not know whether that was the motive for writing this letter in which he says he cannot come over, and begs her to come, when he is about to start to go to her the very next day.

The time had certainly come for his going to Lady Tichborne at Paris, as he had been in England since the 25th of December. Lady Tichborne being anxiously waiting for him in Paris, it was not possible to delay his departure on his visit to her any longer, and on the 10th he starts, and arrives in the evening at Paris. Now he was accepted, as we know, by Lady Tichborne on his arrival, in an interview to which I shall call your attention presently. But it may be as well, before we come to their first meeting, just to consider the frame of mind in which Lady Tichborne was at the time she first saw him. A great deal, of course, has been made of her acknowledgment of him as her son; and one cannot quarrel with the counsel for the defendant in making that the head and front of his battle. Recognition by the mother would outweigh the omission of a host of witnesses to find, in the defendant, the real Roger. If you want to express the change in a person's appearance in the strongest possible form, you resort to the popular expression, "He is so changed that his own mother would not know him again." And you cannot estimate too highly the authority which a mother's decision in such a matter ought to carry with it. But, as I said the other day, there is no rule so absolute but that it may admit of an exception; and the question is whether we shall find such an exception here. Now when I admit, to the full, the authority which a mother's recognition of a child ought to carry with it, let me say I am not to be misled by any idle declamation about a mother's instinct. It is not like the feeling that an animal has, and possibly the human animal may have, for its new-born child. When the instinct of a mother is thus spoken of, it means something which is independent of judgment; some impulse of nature stronger than human judgment or human reason; something which carries you irresistibly on to some particular thing. But if a child were entirely separated from its mother immediately upon, or very shortly after, its birth, and she did not see that child again, do you suppose if twenty years afterwards she met that child in a crowd she would be irresistibly moved by some internal impulse, to throw her arms round the neck of the man or woman, whichever it might be, with all the feelings of a mother? Do you suppose if a child is removed from the mother or father and brought up by the

grandmother, or grandfather, or uncle, or aunt, in another country, that after years have passed the person who had the bringing up or training of the child would not be a much better judge of its identity than the father or mother to whom it owed its birth? The knowledge of identity on the part of a parent is the result, not of any natural impulse independent of observation and judgment, whereby a mother is better able to recognise her child than anybody else would be; it arises from constantly seeing and watching the particular individual, from becoming familiarised by daily habit with everything that appertains to personal identity—features, form, gestures, everything which constitutes the sum total of identity. It is from being familiarised with these more than anybody else can be that the father or mother are best able to speak to the identity of the child. If a son has lived much away from father or mother, if he has lived more with others than with them, it may be that others may have quite as much ability to judge of his identity as the father or mother would have, perhaps even more. We must not, therefore, allow ourselves to be carried away by declamatory commonplace about a mother's instinct, but must look to see how far we can trust to the mother's judgment. More especially if we find in the particular instance that there has been some such strong bias as that we cannot rely on the judgment of the parent, we must not allow the conviction which every other fact and circumstance in the case would naturally tend to engender in our minds to be overruled and overwhelmed by the fact of a mother having said that a particular individual from whom she had been parted a great many years was her son. We should listen with all due respect to the opinion of the mother; we should take it as a circumstance calculated to weigh strongly in the one scale; but if our conviction, having taken into account the large range and variety of facts which we know and which the mother did not know, is that she must be wrong, no appeal that is made to your feelings, or addressed to you in the name of the departed mother, ought to influence your judgments. Take it as a most important circumstance in the case, but not as conclusive, as the learned counsel would make it. If it were so, what need of all this long and protracted inquiry?

Gentlemen, let us now consider whether there were not several things which ought to have made Lady Tichborne hesitate in accepting the defendant as her son, even if the defendant, on his appearance, had presented the outward and external appearance of the son whom she had lost? Were there not circumstances which ought to have made her pause and hesitate, and certainly not decide before she had an opportunity of asking, in the words of the Patriarch, "Art thou my very son?" Instead of which, long before she had seen him, and with all these difficulties standing in her way,

she declares that he is her son, and accepts him as such. Just let us see what the circumstances were. There were, as she had learned from the correspondence of Mr. Gibbes, various things which the defendant had stated which were perfectly incompatible with the memory of Roger. She had been told that he had said he had had St. Vitus's dance. She knew perfectly well that Roger never had had it. She knew that he had denied that he had ever been educated at Stonylhurst; she knew that he had denied that he had been an officer in the Carabineers; she knew that he had said, in positive contradiction of her statement that he had been so, that he had enlisted as a private in some other regiment, a regiment which had no existence. She knew that he had referred to his grandfather, whereas he never could have known his grandfather. Surely those were things which ought to have made her pause before she accepted him as her son, not having, up to that time, seen him. As to these things, you know there can be no doubt that he had made statements inconsistent with the facts, irreconcilable with the recollection of Roger. Furthermore there were two things he had spontaneously referred to as proof to her of his identity: he had referred to the brown mark, and the Brighton card case. Now with regard to the first she knew perfectly well that she had never known, or seen, or heard of a brown mark. She says so in distinct terms. He might have such a mark, but she had never known it; and, inasmuch as it is in the highest degree improbable that a child would have a brown mark, such as the defendant is described to have, without the mother knowing of such a thing, either by ocular sight, or by the nurse or nurses telling her, ought not that in itself to have created very considerable doubt in the mind of Lady Tichborne? The brown mark, however, belongs to a different head of our inquiry. I do not now stop to inquire whether he had a brown mark or not. For our present purpose it is enough that having been referred to by him as a proof of his identity, it was a thing altogether unknown to her.

But it will be convenient at this stage of the inquiry to deal with that remarkable circumstance of the Brighton card case, which, as you know, the defendant referred to in his letter as a fact within Lady Tichborne's knowledge as well as his own, and by which she would be able to know that the person writing to her was her son. Had the card case any existence? If it had not, nothing can be more striking as showing Lady Tichborne's fixed determination not to be driven by any obstacles, let them be what they might, from the point which she so anxiously sought to establish in her own mind, namely, that the man who was coming home, and who professed to be her son, was her son? Is there any reality in this alleged Brighton card case? or was it a myth—a delusion from the beginning to the end? As we

are coming to the recognition of the defendant by Lady Tichborne, it seems to me that this Brighton card case is an all-important element in deciding the question of whether that lady's judgment was one upon which we can place reliance, or whether, notwithstanding the general authority of a mother's recognition of a son, we must refuse to give that weight to it which has been so loudly claimed for it in this case. Let me call attention to the circumstances of the Brighton card case, and let us see whether there is any reality whatever in it. We must take the defendant's account of it, and he gives it first in his examination-in-chief. Mr. Giffard, knowing perfectly well that in his first letter to his mother he had referred to the Brighton card case as proof of his identity, is naturally led to ask him about it. "Now do you remember an incident about a card case? Perhaps I had better ask you first—While you were away on this leave of absence"—I should tell you that Mr. Giffard had been examining him on a leave of absence which he had had at Canterbury, the last long leave of absence before he went away—He then asks—"While you were away on this leave of absence, did you go to Brighton at all?—Yes, I did on one occasion? Q. How was it you came to go to Brighton? I do not know whether you have said you went to Goodwood?—No, I did not say that. Q. Did you go to Goodwood?—I am not certain." Now it is quite certain that Roger did not go to Goodwood, because while those races were going on he writes from Canterbury, and says—you remember the letter—"Some of us have got leave, and are gone to the Goodwood races." Now a man who says "some of us are gone," and is writing himself from Canterbury, does not speak of himself as having gone to Goodwood races; therefore I think we may be quite certain that Roger did not go there in the year 1852. The examination continues: "I think you say you did go to Brighton? Do you remember how long you were at Brighton?—I was there about three days I think. Q. You do not remember? The LORD CHIEF JUSTICE: Yes, he says 'About three days I think.' Mr. GIFFARD: I beg your pardon, I not only did not hear but misheard: do you remember any incident particularly that gave rise to a discussion between you and your mother afterwards?—Yes, I do. Q. What was that?—I lost money there, that was all. Q. You lost your money there? Mr. SERJT. BALLANTINE: Some money. The LORD CHIEF JUSTICE: What?—I lost some money there, playing, that was all. Mr. GIFFARD: How do you mean by playing?—Playing cards. Q. With whom were you playing cards, were they strangers or friends?—They were strangers to me"—observe those words—"Do you remember at all what sum of money it was; about how much; I do not want exactly? I think it was about 1,500*l*. Q. Had you any difficulty in paying that sum?—Yes, I had. Q. How was it that that sum was ulti-

mately paid?—It was never all paid. *Q.* How came that to pass? —Well——. The LORD CHIEF JUSTICE: What did you say? There was some sound but not articulate?—I did not speak, my lord, yet. Mr. GIFFARD: Was some of it paid?—Yes, about 500*l.* of it. *Q.* 500*l.* of it was paid?—I do not know the exact sum. *Q.* I was going to ask about that; who was it managed the matter, the payment?—My mother got me the money. The SOLICITOR-GENERAL: Did you say ‘got;’ or ‘gave?’ The LORD CHIEF JUSTICE: What did you say? Be kind enough to repeat?—Got me the money. Mr. GIFFARD: I thought it was ‘got;’ ‘My mother got me the money:’ Now upon her getting you the money, was there anything that passed between you and her as to your playing cards again, anything of that sort?—Yes, she made me promise I would never play cards again. *Q.* Was that a matter publicly known, or was it hushed up as much as possible?—It was hushed up as much as possible. *Q.* Who were the people with whom you were playing when you lost your money?—They were two men of the name of Broom, and one man named Robins. The SOLICITOR-GENERAL: Roberts? —Robins. Mr. GIFFARD: Robins; do you mean that Robins was the name of one of the two Brooms, or was it another man?—No, another man, and there was another there called Ecclestone, or some such name; that man lived in St. Martin’s Lane. *Q.* That man lived in St. Martin’s Lane, Ecclestone?—Ecclestone. *Q.* The man whose name you think was Ecclestone, or something like it?—Yes, I know it was Ecclestone. *Q.* How came you to be playing with these men, who were perfect strangers to you?—Well, I am not sure; I was a little the worse for liquor I think. *Q.* Where was it that you had met them, or that they had met you?—At the Bedford Hotel. *Q.* You have told me that your mother got the money for you, and of course she knew of that transaction; did your father know it?—I believe he did afterwards. *Q.* Eh?—Yes, he knew of it afterwards. *Q.* Do you know whether any of the servants knew it or not?—Well, I could not say what they knew. *Q.* So far as you know, did anybody but yourself and your father and mother know it?—I think it was a thing known generally in our own circle. The LORD CHIEF JUSTICE: You think it was what? Mr. GIFFARD: You think it was a thing generally known in your own circle?—Yes.” Now, on that I must observe that we have had the Messrs. Seymour before us, and as far as their knowledge goes they never heard a word about this card case; therefore, if this is meant to refer to the family in general, it is quite clear that the statement is incorrect. If he means the circle limited to his own father and mother that might possibly be. Now, thus far you see there is no mention of this transaction having occurred at the Brighton races. It is merely put by Mr. Giffard as a circumstance

which occurred in the course of the two months' leave he had prior to his leaving the army, that having gone to Brighton, he there got mixed up with these Brooms, Robins, and Ecclestone. They were at the Bedford Hotel; they played at cards, and he lost a considerable sum of money, amounting to some fifteen hundred pounds. That was compromised; his mother found and paid 500*l.* for him, on his promising not to play at cards again, and there was an end of the matter. It was hushed up generally, so far as the public were concerned, but was known in his own circle, whatever the meaning of that term and the sense in which he used it may be. But in cross-examination a very different state of things is disclosed. "Let me understand," says the Solicitor-General, "a little more about the card case. I dare say it is my want of comprehension. What time of the year was it that you say this loss of yours occurred? First of all in what year; 1852?—1852. Q. What part of the year 1852?—About September or October, I think; I am not certain to the month"—We know pretty well where Roger was every day, and, as far as our knowledge goes, he never was at Brighton at all; there is no trace of it in any of his letters—"Was it, at least, as late as that?—Yes, it was late in the year; it might have been August; I cannot say within a month. Q. What is your impression?—It was one of those three months. Q. But which, according to your impression?—I cannot say which. Q. Have you not an impression? It is the one thing you pick out to identify yourself by; cannot you tell me in what month it occurred?—No, I cannot say what month it occurred. Q. I suppose it is the only time in your life you lost 1,500*l.*?—Well, I do not think it is. Q. You do not think it is the only time in your life you lost 1,500*l.*?—No. Q. I mean at play?—I know what you mean. Q. Then do I understand you to swear you do not think it is the only time in your life you lost as much as 1,500*l.* at cards?—Oh, at cards; yes, the only time I ever lost 1,500*l.* at cards. Q. What distinction do you draw between cards and play—any?—I should leave that for you to do. Q. Excuse me; what do you mean? You say it is not the only time you lost 1,500*l.*, you should think, at play, though it is the only time you lost 1,500*l.* at cards; at what other game have you lost 1,500*l.*, upon your oath?—I do not see why I should tell you. Q. That is for me to consider; I ask you?—I decline to answer. Q. Answer the question?—I decline." Then the LORD CHIEF JUSTICE says: "On what ground do you decline?—It has nothing to do with the case. There can be no harm in your answering it then?—Yes, there might be harm in answering it. Q. What harm do you suggest?—I do not see why I should let the whole public know what I have done during my life; I do not think it is fair, my Lord. The LORD CHIEF JUSTICE: That is no ground

for not answering the question. You must answer it, unless you have any other objection." Then the SOLICITOR-GENERAL says: "When in your life have you lost 1,500*l.* in any game, except on this occasion?—Well, I have lost at my club. *Q.* What club?—The Junior Gun Club. *Q.* When?—I do not know how long ago it was. *Q.* Yes, 1,500*l.*?—It might be eight or ten months ago." This statement strikes one as startling, because we know that at this time he was, or had been, living on the bounty of his mother, unless indeed it may have been paid out of the money he raised—" *Q.* What I want to know is, whether you ever, in 1866, when you wrote this letter, had lost 1,500*l.* at any game of cards or not?—You did not put it in that way; I could have answered it very easily if you had. *Q.* You misunderstood me, no doubt; now do you understand me?—If you remember, you said in my life. *Q.* I am asking you to fix the date; remember how I put the question; I am asking you to fix the date when you lost 1,500*l.* at cards, and I have remarked to you that I presume you never lost 1,500*l.* except on this occasion, and therefore you could tell me. You put upon me something that happened eight or ten months ago. If I am not sufficiently specific——" Then Mr. Serjeant Ballantine, always ready, interposes and says, "'In his life' was the expression." "Oh," says the Solicitor-General, "if you honestly misunderstood me." Mr. SERJEANT BALLANTINE, "That is what you said." The SOLICITOR-GENERAL: "Well, do not let us dispute: I meant before 1866: if I misled you I beg your pardon; it is much shorter to put an end to it in that way: now understand I mean before 1866; did you ever in your life, before 1866, lose 1,500*l.* at any game of cards or otherwise?—Before that, no. *Q.* Then surely you can tell me when you did lose this 1,500*l.*?—Well, I think I have told you. *Q.* No, you have not indeed; cannot you give it me more precisely than that?—It was the latter end of 1852." Mr. SERJEANT BALLANTINE: "One of three months." The SOLICITOR-GENERAL: "August, September, or October? you cannot give it more precisely?—No, I cannot. *Q.* I must trouble you to tell me where you lost this?—At the Bedford Hotel. *Q.* Whereabouts in the Bedford Hotel?—Brighton. *Q.* We know where the Bedford Hotel is at Brighton, but what I want to know is, whereabouts in the Bedford Hotel did you lose this 1,500*l.*?—Whereabouts? *Q.* Yes; in the sitting-room?—Yes, in the sitting-room. *Q.* In your own sitting-room?—No, not in my own sitting-room. *Q.* Whose sitting-room?—It was in a sitting-room. *Q.* Who was the occupier, at that time, of the sitting-room?—I cannot say who had the room; I cannot tell you who it was engaged the room. *Q.* But how came you to go to this sitting-room where you lost the 1,500*l.*? who asked you to go?—Asked me to go? *Q.* Yes, you say it was not your own, so who invited you

into it?—It was one of the Brooms. *Q.* What, John or Harry? You knew them both did you not?—Yes, I knew them both.” Now the cross-examination upon this point was at some interval after the examination-in-chief, and I presume he had forgotten what he said in the examination-in-chief, because on that occasion he had said that the two men who won his money were strangers to him, whom he did not know before. Now he knows them both, and refers to Harry as keeping the Opera Tavern in the Haymarket. “Were they like one another—John and Harry?—No. *Q.* Then surely you can tell me which it was?—Well, it was the biggest of the two; Harry I think it was. *Q.* Then do I understand you that Harry Broom was in the Bedford Hotel, Brighton?—Yes. *Q.* In the month of August, September, or October, and asked you to come in and have a game at cards; is that what you say?—No, I do not exactly say that; we had been together previous to that. *Q.* But did he ask you into the room?—I suppose he did; yes. *Q.* You suppose he did. Which Broom?” Then Mr. Serjeant Ballantine comes in, “He says who he believes to be Harry.” Then the Solicitor-General takes it up and says, “Well, whom you believe to be Harry; was he staying at the hotel? did he sleep there?—I could not tell you, I am sure, whether he did or not. *Q.* Surely you were about with him, as you say you lost 1,500*l.* amongst them?—Yes. *Q.* Surely you know whether Harry Broom, the keeper of the Opera Hotel, in the Haymarket—?—But you asked me whether he slept there. *Q.* Yes?—That is a question I cannot answer. *Q.* Was he staying at the Bedford?—I believe he was. *Q.* Was John Broom staying at the Bedford too?—I do not know, I am sure, whether he was or not. *Q.* What is your impression? that he was?—I cannot say, I am sure. *Q.* Was Eccleston?—No, I do not think Eccleston was. *Q.* And there was some other man; a fourth man, I forget?—Robins. *Q.* Was Robins staying at the Bedford too?—No, I think not. *Q.* Then you think Harry was staying there; John may have been?—He may have been. *Q.* The other two you think were not. You say you had been with both Brooms, or with Harry only?—With both of them. *Q.* Where?—About Brighton. *Q.* For how long?—I was there only three days altogether, I think. *Q.* Then you could not have been more than three days, if that was the whole amount of your stay at Brighton. *Q.* How much of your three days’ stay at Brighton did you spend with Johnny and Harry Broom?—I cannot say, I met them during the day-time. *Q.* During which day?—Each day, I think, if I remember rightly. *Q.* Then you spent, I may take it, portions of each of the three days you were at Brighton with Johnny and Harry Broom?—Yes. *Q.* And Eccleston?—Yes, Eccleston. *Q.* And Robins?—No, Eccleston, I think, I did not see till the third day. *Q.* And Robins; did they join the

party the third day?—I think they did. *Q.* That is your impression?—Yes. *Q.* Were those the only people you saw there in their party, or were there any other people?—Yes, there were other people.” Then there is some cross-examination about Staden and James, which I pass over. He knew nothing of them. “You say you were about with the Brooms, John and Harry; were you staying at the Bedford?—I was. *Q.* And your impression is Harry was too?—I believe so. *Q.* Did you meet after breakfast and walk about, or did you breakfast together?—No, we did not breakfast together. *Q.* You met afterwards, did you?—Yes. *Q.* And walked about; where did you go to in Brighton?—Where did we go? *Q.* Yes?”—now please to attend particularly to the answer—“Went to the races.”—That is the important part. He is led up to it, you see. Who were the people? Where did the transaction take place? What did you see of them?—Why, I was going about with them every day. Where did you go?—To the races. The SOLICITOR-GENERAL: “Was it the race week?—The race week—the autumn races”—There are no races at Brighton but once a year, call them autumn or summer whichever you please; the Brighton races are the Brighton races, and only occur once a year. “The autumn Brighton races?—Yes. *Q.* That you remember?—That is my impression. *Q.* But you recollect whether you went to the races or not?—Yes, I do. *Q.* If you went to the races, I suppose it was in the race week?—Yes. *Q.* If you went there, they were there to go to, that would follow; it must have been: if you went to the races, there were races to go to?—Yes. *Q.* It must have been that time, that fits it; where did you go to; whereabouts in Brighton did you go besides the races?—Really, I cannot say. *Q.* Did you spend the whole time on the race-course, the three days?—I think not. *Q.* What did you do the other part of the time? where did you go to?—I probably came back to Brighton; I really cannot tell. *Q.* Probably what?—Came back to Brighton. *Q.* Whereabouts in Brighton did you go? what places did you go to?—I really do not remember what places I went to. *Q.* You cannot recollect?—No, I cannot. *Q.* You recollect going to the Brighton races, and you recollect this room, and this playing; cannot you remember what places you went to at Brighton?” To this there is no answer. Now comes an important question, especially when compared with what he had said before. “Was this your first acquaintance with Johnny and Harry Broom?—No, it was not. *Q.* Eh?—No, it was not. *Q.* You knew them, did you?—I knew Harry. *Q.* You knew Harry; did you know Johnny?”—Now I beg you to observe the answer.—“I do not think I ever saw Johnny before that. *Q.* You had heard of him, I dare say?—Yes. *Q.* Had you been with them in London—stayed with them?—Stayed with them? *Q.* Yes; either with Johnny

or Harry?—Certainly not. Q. Certainly not?—You said, ‘stayed with them.’ Q. I mean stayed in their house?—I had been in his house. Q. In Harry’s?—Yes.”—Now pray observe this question and answer: “Were you ever at Johnny’s house?—No, never at Johnny’s house. Q. Now then, you lost 1,500*l.*?—Yes. Q. What had you with you to pay? anything?—About 40*l.*, I think. Q. I don’t think you told us; perhaps you did; it may be my mistake; where did you go from to Brighton?—From Canterbury. Q. Straight from Canterbury to Brighton?—Yes; I do not know whether I went straight from Canterbury; I think I came from Canterbury to London, and from London to Brighton. Q. I mean were you staying in London, and did you go to Brighton? or did you go straight from Canterbury, merely passing through London on the route?—I think I was a night in London. Q. Where?—At St. James’s Place. Q. Then you went down to Brighton? it was the Brighton race week?—There were races there. Q. And you lost 1,500*l.*? was there any public notice taken of this?—None whatever, as I know of. Q. You mean it never came into Court?—Certainly not. Q. It never became what we lawyers call a case in Court?—No. Q. When you spoke of it as the card case at Brighton, you only meant an incident that happened to yourself?—I meant that for my mother; not for you to talk about. Q. That I quite believe, you did not think it was for me; there I fully agree with you. What I want to know is, what you meant by speaking of the card case at Brighton; did you mean this incident that you have spoken of?—I did. Q. And that was how you described it?—Yes. Q. The card case?—Yes. Q. Now, on your solemn oath, was there not, to your knowledge, a well-known card case at Brighton, in which John and Harry Broom, and Staden, and James, were implicated, and were not Staden and James tried in the very year 1852, and sentenced for a card swindle at Brighton?—Upon my solemn oath, I know nothing about it. Q. That you swear?—That I swear. Q. Did you ever hear of the trial?—I might, and may have forgotten it.”

Such is the defendant’s account of this Brighton card case, and these things result from it: that it took place at the time of the Brighton races—he fixes that himself—as he says they went, he and the Brooms, every day to the races, as well as to other places at Brighton, before this card-playing transaction took place; that it was in the year 1852—and if he went over from Canterbury, it must necessarily have been in 1852—And he distinctly states that it was from Canterbury that he went to Brighton on the occasion of the Brighton races, when this transaction is supposed to have taken place; that he lost 1,500*l.* to these men, of whom one, Harry Broom, he had known before, according to his last account; in the house of

one of whom in London—the house kept by Harry Broom in the Haymarket—he had been, but in the house of the other of whom, he never had been—a very important fact when you come to deal presently with the evidence called for the defendant in respect of this part of the case. These are the three salient, prominent features: the going from Canterbury to Brighton; on the occasion of the Brighton races; in the year 1852, the only possible year in which Roger could have gone from Canterbury to the Brighton races. Now there had been, in the year 1851, a transaction at Brighton, a card swindling transaction, which had acquired considerable notoriety. These two Brooms were notorious pugilists, and one of them, John, as shown by that transaction, an accomplished villain, had, with two other men, James and Staden, in the summer of 1851, I am not sure whether during the race week or not, got hold of a young gentleman of the name of Hamp, the son of a clergyman in one of the Midland Counties, and induced him to play with them at cards. They of course cheated him, and won 1,500*l*. This became known, and the three men, John Broom, James, and Staden, were taken up and committed, but were let out on bail to come up and take their trial at the next assizes at Lewes, which would be in the spring of 1852. When the spring assizes came on Hamp, who having lost his money, thought that the best thing to do would be to say no more about it, and who did not desire that more publicity should be given to this transaction than could be helped, failed to appear, and so no true bill could be found. The consequence was that Mr. Hamp's recognizances were estreated, and the amount being considerable, he thought better of the matter, and made an application to the judge at the next assizes, and got the estreat of his recognizances taken off on condition of his appearing and preferring a bill of indictment. The recognizances being enlarged, he came and preferred his bill; a true bill was found; James and Staden surrendered to take their trial; John Broom forfeited his recognizances and absconded, and is supposed to have left the country. Warrants were immediately issued against him, but he was nowhere to be found. James and Staden were tried before the late Lord Chief Justice Jervis, and were convicted and sentenced. Now this took place at Lewes in the very last week of July, 1852. John Broom, as I told you, absconded. The chief officer at Brighton, who was called before us, told us that he had a warrant against him. The warrant was immediately issued for the apprehension of John Broom whenever he could be found; and of course they were on the look out for him from that moment. The Brighton races, in that year, 1852, were upon the 4th, 5th, and 6th of August, lasting three days, as was proved by Mr. Weatherby, the great authority in these matters. Now could Roger have gone to those races; and did he go? If he did, is it possible that he

could have been the victim of a card-swindling transaction in which John Broom could have taken part?

We have a letter from Roger to Mr. Vincent Gosford of the date of the 3rd of August, and in that letter he tells him he thinks he might get leave of absence, but that he shall not apply for it because he knows that his father is at Tichborne, and he does not want to go to Tichborne; if he got leave his father might hear of it; and as he did not wish to explain to his father why he did not come to Tichborne, he should be sorry his father should feel he was keeping away from him. It is perfectly clear that he could not get to Brighton, there not being at that time the line of railway through Kent, in less than a day; he would want a day in order to be at the Brighton races on the 4th. If he stayed there a day he would want a day to come back, which would make it the 7th. He could not be absent from his regiment without leave; and on the 3rd he writes and says: "I will not ask for leave, because, if I get it, my father will expect me at Tichborne; and I do not wish to go." That letter is written from Canterbury; and on the 7th, which would be the day next after the races, he writes from Canterbury to his mother. Now, if he lost this 1,500*l.* at Brighton between the 3rd and the 7th, he must have lost the money when writing to his mother on the 7th; and, according to the defendant's account, not having the money to pay, he was obliged to resort to his mother for the means of paying it. Roger writes on the 7th, and yet there is not the remotest hint of his having been at Brighton, or having lost a sixpence there; and what is more, his mother having conceived, at that time, the wild notion of coming to England and going to Canterbury, while her husband was in a different part of the country, he writes a strong letter of remonstrance to her: "How can you contemplate such an insane idea? What would the world say if you should come? Don't think of it. If you persist in coming, I will try to get my father's consent to take a house at Dover for you to come and live in; but you had much better not come." Now, if he was in that predicament, that having lost that money he had only his mother to look to to find it for him, would he, do you think, have written to her, not only without referring to it at all, but in the strongest possible terms seeking to deter her from coming to this country? This seems to make it very improbable that Roger could have been in the meantime to Brighton and have lost this sum of money. But there is a still greater difficulty, and it is this: John Broom had absconded, because he would not stand his trial at Lewes Assizes in the last week in July. The police officers had a warrant for his apprehension, but the defendant's story implies this: That this John Broom, who had forfeited his recognizances and absconded, in order not to be compelled to take his trial, was walking about at the Brighton races, the

week after, as if nothing had happened; he and his brother Harry walking about with Roger; going to the races, where the police authorities must necessarily have seen him, because you know at race time they are active in preserving order and preventing improper and disorderly characters carrying on their evil practices and the work of plunder, at the expense of persons frequenting the races. They have their eyes all over the place. Is it at all probable, can it be put to us as rational men, as in the slightest degree probable, that John Broom would have been walking about Brighton for the whole three days of the Brighton races in succession, and have been taking a part in exactly the same description of transaction and criminal offence for which his two companions had just been tried at Lewes, and for which he would have been tried if he had not got out of the way? An officer, as my Brother Lush reminds me, was at the very time watching the Bedford Hotel in order to see if he could find out anyone else who was supposed to be a party to that transaction, or in swindling other parties.

Again, the defendant says the money was found by his mother. Out of what fund? She had no fund under her control from which the money could be taken. Her own fortune had come to her after her marriage. It was not vested in trustees, and although the husband by the law of France was responsible for the money, he had the immediate command of it. Therefore, if the 500*l.* had been wanted for this purpose, it was through the father alone that the money could be got. Lady Tichborne's own pin-money, the money settled to her separate use, amounted to 100*l.* a year, and 100*l.* a year would not pay 500*l.*; at least not for five years; and she would have had to undergo the privation of this money the whole of that time. She could not control the disposition of it except with the concurrence of her husband. It may be said she might have raised it, but she could not do so, at least in this country, without the concurrence of her husband. A married woman cannot make herself liable for money where her fortune is not settled to her separate use. If she borrowed the money there must have been some one from whom it was borrowed; and as, being a married woman, she could not bind herself, Roger must have been a concurrent party in raising the money. Roger was the heir to 20,000*l.* a year; and Roger's debt would have been a good binding obligation upon him. He could have been made to pay, and therefore if a banker or money-lender had advanced this sum he would have said, "We must have the concurrence of the son; he must be a party to the transaction." If this be so, and if the defendant is Roger, he could tell us from whom that 500*l.* was borrowed; and the party from whom it was borrowed might have been produced, with his books and accounts, that we might know that this was a real transaction; but no such proof, though obviously important, has been produced. But why should

Roger go to his mother at all—his mother who had a limited income? He had the reversion of these large estates, and as Mr. Gosford truly said, “If he wanted to borrow 500*l.* he might borrow 500*l.* as easily as I could borrow 5*l.*” There would not have been the slightest difficulty. He might have to pay for it, but he could have raised the money without the slightest difficulty, or occasion for troubling his mother at all. Looking at all these circumstances, what conclusion do you arrive at? Is this story about the Brighton card case a reality or a delusion? Is it fact, or is it an invention from beginning to end? If it is merely a delusive story, if it be that having heard of this Brighton card case as being one of the things that made a great sensation at the time and which appeared in all the papers, the defendant has adapted it to his own case, and talked about the card case as applicable to himself, because he had heard about it—if that is the conviction you eventually arrive at, what must you say with reference to the mother, who, instead of saying “it is idle and ridiculous to talk about the card case happening to Roger; no such thing happened to him at all”—who, instead of saying that, says in effect, “Don’t let us say anything more about it; if it were talked of it would be perfectly well known that it never did happen and never could have happened to Roger, and of course there would be an end of the case as to the identity of this man, who founds the truth of his identity on this transaction; let us therefore say nothing about it.”

But the difficulty is sought to be got over by evidence called on the part of the defendant. There are two witnesses; one is Mr. John Taylor, the proprietor of the Royal Hotel, Derby, a man from whom, considering the respectability of his position, you would look for trustworthy information. He was formerly a sort of turf agent, but now keeps that hotel. He says he had a bet with Johnny Broom in 1849, that he went to his place, the Rising Sun, Air Street, Piccadilly. He was taken into a back parlour where there were three or four gentlemen, and Johnny Broom said he had got some swell in his back parlour. He pointed out to him one gentleman but did not introduce him; a young man, tall, not stout, of a fair size. He has forgotten all other appearances, and can give no other description. The parties were standing in the parlour drinking champagne, and he saw the same party there two or three days afterwards, again drinking champagne. He fixes the date in 1849, and says it was prior to the Epsom Spring Meeting, the Metropolitan; it might have been in April, but he thinks it was in May. Now at that time Roger was at Tichborne studying for his examination, and so far as we are aware he was not in London at that time; because when Lady Tichborne writes to him in the month of August she refers to his having been eight months at Tichborne. To be sure it is possible he may have come up to London for two or three days, and might have gone to John

Broom's on this occasion, supposing he was acquainted with John Broom and had some reason for being at his house. Supposing he is not mistaken about this young man being Roger, what has the presence of Roger at John Broom's in 1849 to do with the transaction which, according to the defendant's account, took place at the Brighton races in 1852? I have further to observe—and this is why I called your attention to the particular passage in the defendant's cross-examination—that he distinctly stated that he never was at John Broom's house at all. Under these circumstances of what avail is Mr. Taylor's evidence?

Then another witness is called, William Burnell, who says that he was at John Broom's in the autumn of 1850, and that he saw Lieutenant Tichborne there, who, he says, was familiarly called Captain Tichborne. He says: "He came in a pony trap, with a bay pony and a low two-wheel chaise. Q. Was he in ordinary clothes, or how?—Ordinary clothes, plain clothes; with a low-crowned straw hat on, what we call a flat straw hat. Q. Were you having any refreshments at Johnny's when he came in?—I was having a glass of ale. Q. What did Tichborne do when he got into Johnny's?—He walked straight into the parlour, put his hand on the corner of the table, and sat on it. Q. On the table?—Yes, and Johnny Broom followed him in from the bar. What did they do then?—They were talking for some little time before I could hear, as they sat in the parlour, and I stood against the door. Q. Where were you?—I was standing against the door that leads into the parlour, within about four or five feet of the bar." Then the Foreman of the Jury asks: "How did you know it was Mr. Tichborne?—Because I was told it was Mr. Tichborne by a friend who was in before I went in. He sent me in." Dr. KENEALY: "We will have his description, Mr. Foreman, immediately. What did you hear him and Johnny talking about?"—He seems to have gone to the door and listened, according to this—"He told Johnny Broom that if he did not refund him back the money he had swindled him out of, he would take proceedings against him. Q. What did Johnny say?—He said he would see the others that were with him at the time, and it should be put all right. Q. What did he call him?—He called him Captain Tichborne." Then I ask: "By name, did he?—Yes, he did, my lord." Then one of you gentlemen asked: "Are you sure this was in August, 1850?" Then I say: "In the autumn, he said." Then again one of you say: "I thought he said August." Then I ask: "The autumn of 1850?—The autumn of 1850." Then my Brother Lush asks: "What time was it when you saw him at Broom's?—I should think it was, as near as I can call it to mind—it is a long time ago—from July up to September; something about that. Q. Between July and September?—Yes." Then Dr. Kenealy asks:

“Can you recollect what sort of a young man this was?—Yes; rather dark; I noticed particularly he was dark. Q. About what age?—I should take him to be at that time, if I was asked then about his age, from twenty to twenty-one. That is the age I should have took him to be. Q. He looked a young fellow?—He looked a young fellow. Q. He looked dark?—Rather dark; dark complexion. Q. About how tall was he?—I should think about 5 feet 9 inches. Q. What sort of shoulders had he?—He had rather broadish shoulders; he was what I call an ordinary made young gentleman about the body and shoulders. Q. Do you remember his hair and his eyebrows?—I remember his hair being dark. His eyebrows were dark, and rather heavy in the forehead, I thought. Q. Did you notice anything peculiar about his walk?—Yes, I did. Q. What was that?—He had got a very peculiar walk with his right leg; his right knee seemed to bend in as he walked; it seemed to twist round as he set it down, and bend a little; a very peculiar walk with his right leg. Q. Captain Tichborne was in a little low-wheel chaise?—He was; a low two-wheel chaise—what we call a pony chaise, with another gentleman with him.”

Now, elaborate as this statement is, it is simply impossible. We know perfectly well that at that time Roger was at Cahir, and I should scarcely think could have been called Captain Tichborne, because, although in familiar phrase people do sometimes dub a man with higher rank, he was not even at this time lieutenant. He did not become so until November, 1850, and therefore is not likely to have been called captain, though he might have been so called; but the conclusive answer is that he could not have been there, and the two-wheeled chaise must therefore be all imagination. It was physically impossible that Roger Tichborne should have been there. He was at Cahir the whole of 1850, after his return thither in January; never obtained leave, or came to England, and therefore cannot have been at John Broom's between July and September. Neither can there have been a conversation in 1850 about a loss at cards which occurred in 1852.

But, says the learned counsel, “What do I care for dates? Nothing whatever. I have the most sovereign contempt for dates, and if it did not happen in 1852, why it may have happened in 1851; and if not in 1851, then in 1850; and if not in 1850, then in 1849; and if not in 1849, it happened at some other time. The learned counsel makes dates shift according to the exigency of his requirements, and says, “If it was not in 1852 it was in 1851.” But it could not have been. That inexorable logic of facts which beats all speculation proves the contrary. We know when the Brighton races took place in 1851. They took place on the 6th, 7th, and 8th of August. Roger came over in the month of July on his fortnight's

leave, to see the Exhibition, and he got back to Clonmel, his then quarters, on the 30th of July, and, as we know from his letters, did not leave his quarters afterwards. Therefore he certainly was not at the Brighton races on the 6th, 7th, and 8th of August, the days the races took place in that year. It is idle to suppose that having got back to Clonmel on the 30th of July he got leave again, and came all the way back to England for the sole purpose of going to the Brighton races. It is equally improbable that his colonel would have renewed his leave for such a purpose. So again, if you go back to 1850, the races took place that year on the 7th, 8th, and 9th of August. We have his letters from Cahir, and we know he was at Cahir at that time; that he got no leave, and never came to England. And we have always to come back to the point, that the defendant himself represents that he went from Canterbury to Brighton on the occasion in question. This being so, it necessarily follows, and the fact cannot by any possibility be got rid of, that there never was any year but 1852 in which he could have been at the Brighton races, because, prior to the summer of that year, he never was at Canterbury at all. The statement of the witness Burnell cannot therefore by any possibility be true.

What, then, upon the whole of these circumstances, is your opinion about the card case? Is there any reality in it? It affects not only the truth of the defendant's statement, but the opinion you will no doubt form on the judgment of Lady Tichborne herself in deciding whether the man who presented himself as her son was her son or not; in which view it becomes a very material part of this inquiry. But it may be said, and I think with great force: how did it come to pass that if the defendant had never been mixed up in any card case at Brighton he should voluntarily, spontaneously, have presented that to Lady Tichborne as a proof of his identity? And the same observation applies, and with equal force, to the brown mark. That is one of the mysteries of this case, and one of which the only solution I can offer would be so speculative that I do not think it is entitled to any consideration or weight. The only thing that occurs to me is that some one may have told him that Roger Tichborne had been the victim of the Brighton card swindle—they may have hoaxed him in the matter; some one may have told him that he was like Roger, and may have said, "What is more, Roger had a brown mark just as you have;" or he may have taken the bold, audacious resolution of trying Lady Tichborne's mind, and seeing whether she was so determined to find her son in him, that she was prepared to accept anything—though this I must say appears very improbable. The whole thing seems so strange as to be bewildering. Why he should have recourse to the Brighton card case, if this be, so far as Roger is concerned, a myth, and to the brown mark on his side, if Roger had none, to which I

shall come hereafter, when I come to the marks on his person, is a thing I cannot explain; and the fact, if one cannot explain it, is a circumstance which tells in favour of the defendant; indeed, I quite feel the force of the argument of the learned counsel, and which indeed lies on the very surface—namely, that it is improbable that a man, being told he ought to give some circumstances to his mother which would satisfy her of his identity, should mention two circumstances only, and those two should turn out to be entirely delusive, as not having really appertained to the person with whom the identity is sought to be established. At the same time you must consider the matter in all its aspects. If you come to the conclusion that there is no reality in this story of the card case: that no such thing ever happened to the defendant; that he has merely adopted the card case of 1851, because he read about it in the newspapers, or some one told him of it, and he adapted it to the requirements of his own case, it not only militates most seriously, if you take that view, against him, but it must materially shake your confidence in the judgment of Lady Tichborne. So much for the Brighton card case as an element in this history.

Then there is another thing by which the defendant, with equal confidence challenged the recognition of Lady Tichborne—I mean his handwriting: and, doubtless, there was nothing by which his identity could better be proved or disproved; yet assuredly there is nothing in the whole range of this case more certain than that between the handwriting of the defendant, as exhibited in his letters, and that of Roger Tichborne, no trace of resemblance, however faint, is to be found. The fact is virtually admitted by the defendant's counsel. He offers an explanation, the value of which we shall consider hereafter. But the fact, as we shall see further on, is indisputable, and one would have thought that it would have had the effect of staggering the faith of Lady Tichborne in the claim of the defendant to be her son.

Gentlemen, besides these things, which certainly might have startled Lady Tichborne, she had received advice and admonition which you may think should still further have served to cause her to hesitate before she made up her mind that this was her son. She was in the hands, as regards legal business, of a gentleman who was worthy of her implicit trust and confidence—I mean Mr. Bowker, the gentleman who was called before us as a witness—one of those sound-judging and conscientious members of the profession in whose hands, as regards interest and honour, a client is always safe. When first she heard the defendant was coming forward in Australia, she very wisely and properly placed herself in Mr. Bowker's hands. It was just after she had lost her son Alfred. She was writing to Mr. Bowker from Paris, asking him to make the necessary arrange-

ments for the funeral, not meaning to come over herself; and then she tells him of the letters she had received from Mr. Cubitt, and that she had reason to believe her lost son was found; but that she had written to Mr. Cubitt to say that he must not expect to receive any considerable sum of money from her before Sir Roger arrived. She says, "I have had four letters from Mr. Cubitt; in the last letter I told him I was going to communicate the whole affair to you, at the same time that I was willing to send him 40*l.* to pay for his expenses down to Sydney, but that I would not send him any more, at least, not till I knew more of the business. I have asked Mr. Cullington to forward 40*l.* to Sydney, but he has no correspondent at Sydney, he said, and I must address myself in London; would you be so good as to forward them to Mr. Cubitt, News Agency, 11, Bridge Street, Sydney, Australia. I would send you his last letter, but I am afraid to send it to you by post, and will show it to you when I go to London, in three weeks hence or a month; certainly when you read Mr. C.'s letter you would not doubt that my son Roger is still in existence, and, in my present affliction, it would be a great consolation if my eldest son came back." Poor lady! One cannot doubt that. Mr. Bowker makes the necessary arrangements for the funeral, and, in writing to tell her what he had done in respect of that, he adds, with reference to the discovery of her son, "I have considered the statement respecting your eldest son. I will, of course, remit the 40*l.* to an agent at Sydney, but, before doing so, I should very much like to see Mr. Cubitt's letters. If you were to send them to me in a registered letter, in the same way as you forwarded the cheque, they will no doubt come safe. I cannot help thinking it a plan to get money; still I would not advise you to refrain from sending the 40*l.*, if it would give you any satisfaction. There is not, I understand, any possible reason or motive for your son concealing himself if he be alive, while there is every inducement for him to make himself known, viz., a very handsome fortune in possession, and a very large addition to it in a few years; under these circumstances concealment seems incredible. Still, as I have said, I do not dissuade you from remitting the 40*l.*, although I consider it will be lost. We must hope the little child yet unborn"—at that time Alfred's posthumous son had not been born—"may prove to be a son, and that, under God's providence, it may live to prove a blessing to a most ancient and honoured family." Nothing could be more wise and proper than that advice. She writes to him again, and incloses one of Mr. Cubitt's letters. "I would have answered it immediately had I not been waiting for this letter which I now send to you; I was expecting it, and I thought it was better to wait to be able to forward it to you at once; the other letters are summed up

in that one. You already know, I think, that Roger belongs to a regiment of *militia* in that colony"—A complete mistake: he belonged to no regiment of militia—"It appears that he has lived out of his pay"—It was altogether a delusion. He was not in any regiment, and had no pay to live out of—"I remember how little he cared for money"—Gentlemen, judging from Roger's correspondence, I should say that few men cared for money more. He was extremely prudent in his expenditure; he did not, as other young men do, run into debt; he was always in those letters of business considering about this fund and that fund, and this money and the other money, and I should say was about the last person to whom such an observation would apply. Upon that matter we are quite as able to form a judgment as Lady Tichborne herself. She continues: "I am not surprised that he lived so long away from his own inheritance, specially when I consider that he never limited the time of his absence, and never mentioned anything of the probability of his return. As for what that letter mentions of a nervous affection, Roger never had any when with us, he was nearly two years in the Carabineers, and very much liked by his colonel. I think it is possible I may have another letter on the first of next month, you will see that they will not get on without money, and I cannot bear the idea of losing perhaps the chance of seeing my dear beloved son again for the sake of a little money. I therefore will thank you to have the kindness to advance 40*l.* and to forward it to Sydney. I told Mr. Cubitt, in my last letter to him, that I could not let him have any more till I had some proofs more positive that he had found my dear son, still I think it is better to venture, and the sooner you send the 40*l.* the better it will be. I also think that the money for his ransom ought to be paid out of the estates, when he gets them back to him, but you will of course see later about it. I have, however, a presentiment that we are going to see my dear son again." Then she says, with the kindly feelings of a woman who had been a mother herself, "I think it is better to wait to mention it till after Lady Tichborne's confinement, as perhaps it might do her harm. But, however, I always heard my beloved Alfred speak on that subject in a very reasonable and honest manner, and I have no doubt that it will not meet with any difficulty on her side."

Mr. Bowker having received that letter, replies: "I duly received your letter of the 16th instant, and was making inquiries with the intention of remitting the 40*l.* to some agent at Sydney with a discretionary power to pay it over to Mr. Cubitt, or not, according to circumstances. I have not, however, done so in consequence of the receipt of the two extraordinary letters enclosed." He felt after reading those letters that to send the 40*l.* would be to throw it away, and he held his hand. "With respect to that which purports to come

from your long-lost son, the first thing which strikes me is the manner of the contents, which is totally unlike a letter of an educated gentleman—the handwriting is altogether different from the late Sir Alfred's—the jump from Mr. Cubitt's modest request of a remittance of 40*l.* to the large sum of 400*l.*, will not escape your observation. If the writer were really your son, why did he not relate to you the story of his escape from shipwreck, his subsequent wanderings, and the reasons of his concealment for so many years, with every earthly inducement to make himself known? There is not a line in the letter which is not open to observation. As regards the other letter from Mr. Gibbes, I happen to know the old firm of Faulkner and Gregory, to whom the writer refers, very well. I have shown it to one of the partners in the present firm, and I send also a copy of a letter from him"—We have not that letter, and do not know consequently what they said about Mr. Gibbes—"I am afraid the whole business is an impudent attempt at extortion. If you have any doubt on the subject, I will compare the signature to the letter with your son's original signature to his will. The letters were addressed to you at Tichborne, but my brother supposing them to be for Lady Alfred, opened the envelope in which they were contained, and then forwarded them to me." Now these two letters were the letters of the claimant of the 17th of January, 1866, and of Mr. Gibbes of the 18th, which came by the same mail. Mr. Bowker tells us that that letter of the 17th was received by him, and he tells us that in the second part of it, that part which somehow or other has not been forthcoming, which either Lady Tichborne lost, or, if she did not, having passed into the defendant's hands, he must either have lost or suppressed it, there was not only what she referred to in her answer to Mr. Gibbes about his grandfather, but there was an expression relating to his grandmother; namely, "How is grand-mamma?" On the 27th of March, Lady Tichborne writes to Mr. Bowker: "I have just received your letter, and I hasten to answer it. I think you did right about the money; still I cannot say that this business is only meant to gain money, if you consider the position he puts himself in should he assume a name that does not belong to him; and the character of honesty that he bears would, it seems, defend him from that accusation; however, I think it right not to send any money, as if he is really Sir Roger he will find people to advance him the 400*l.* he requires." She seems to have had a notion that to justify her in advancing the money, it was necessary that some better proof of his identity than his mere assertion should be given; but she seems to have thought that bankers or monied people out there would not require anything more than his bare assertion. The poor lady must have had a very imperfect notion of the bowels of bankers out in Australia, which

are quite as hard as those of bankers here, you may depend upon it. They do not advance money to a man under such circumstances as the defendant was placed in, without something more than mere assertion; and it was only when Mr. Gibbes supported him, and Mr. Cubitt supported him, and Mr. Turville said he was the man, and Bogle also came forward and said, "I have known him from childhood, and he is the man," that the bankers made up their minds to advance the money. They would not have done it, as she imagined, simply on his saying, "I am Sir Roger Tichborne." Then she says with reference to his observation about the letter not being the letter of a gentleman: "If he has lived amongst savages and soldiers these last thirteen years it is possible he should have forgotten English, or at least that he should not write it as correctly as one could wish." She continues, "I did not wish Lady Tichborne to hear of that business till after her confinement. I hope, if your brother has mentioned it to her, it will do her no harm. I had a letter from her last night, and she fortunately says she is going on very well; one thing, however, that seems like Roger, is to have sent his letter to Tichborne, as he only knows Tichborne, and does not know Mr. Callaghan where the other letters were sent. Of course I cannot say anything certain, only that doubts are not a certainty, time will let me know more about it." After this correspondence she desires to see Mr. Bowker, and she sees him at his office and shows him a letter from the claimant, which must have been the letter of the 24th of May; and Mr. Bowker says on that occasion, "She was under the impression that if she recognized her son he would take possession of the estates as a matter of course. I told her that was not so, that the identity of the claimant would have to be distinctly proved, but that I thought there would be no real difficulty about that, as there was a very large family and a great number of connections to whom Roger Tichborne was well-known. She had a photograph, which she showed me. I think it was badly executed. It was a fat stout man, full length figure, with trees in the background. She said she recognized it as her son by the lower part of the face—the chin.—MR. HAWKINS: And by anything else?—The smallness of the hand, which it appeared to me from the photograph, was badly done. Q. Will you see if you can recognize the photograph?—(Three unmounted ones were handed to the witness.)—I do not think either of those is the photograph, because, to the best of my recollection, the figure was standing. I have not seen the photograph since. Q. You think it was full length?—I think it was an upright figure—full length. Q. But you remember some trees in the background?—Trees in the background. Q. What did you say to her?—I do not recollect particularly, but she said she was prepared to swear it was her son in any court of justice whatever.

Q. Did you make any observation upon her saying that?—I was rather startled.” Then I ask: “Had you known Roger yourself?—No, my Lord. Mr. HAWKINS: You say you were rather startled?—I said, ‘What! my dear lady, swear to a man before you have seen him?’ However she persisted in her statement. Q. And you could say no more?—I could say no more. Q. You say she persisted; do you recollect what her language was?—No, I do not. Q. Did you say anything at all to her about yourself?—There were several interviews, one on the 21st of October, and three or four in November. I said to her at some of these interviews, ‘Of course, Lady Tichborne, if you recognize the claimant it will necessarily carry great weight with me;’ but knowing the frame of mind in which she was, I added that I must also be satisfied, and if that turned out to be the case that I would take any steps that might be necessary to restore the claimant to his estates. Q. Did you explain to her by what process you must be satisfied?—I think I said I should ask but very few questions. Q. Did you say what you would do with his answers?—No, I did not; I was not prepared at the time to say what the questions would be. Q. I do not know whether you said you would do anything?—Yes; if I was satisfied, and she was satisfied also, then I would take any steps that might be necessary.” Then my Brother Lush says: “When you said, ‘I think I shall ask him a few questions’—What did she say to that?—She said to that, that Roger would never submit to it. I told her that, whether he liked it or not, he would be compelled to answer a great many questions before he got the estates.” She then tells Mr. Bowker she is going to Paris; that as her son had given bills at Sydney, he would be safer in Paris than he would be in London. But she expressly tells him that as soon as she received any intelligence of the arrival of her son, she would send for him directly. On the 6th of November she writes: “Mr. Henry Danby Seymour has just called on me, and, of course, talked to me very much of my dear son, Roger. I am very anxious to see you to-morrow morning; will you be at your office to-morrow, at twelve o’clock? Will you be so good as to let me know?”

Now Mr. Henry Danby Seymour had been to see her, and he was examined on the subject of what had passed between him and Lady Tichborne: “Did you ever have any conversation with your sister, Lady Tichborne, upon the subject of the defendant?—Constantly. Q. That is after his arrival in England?—And before.” Then he is asked whether he recollects when the first interview with her upon the subject of the defendant was, and he says: “I was so constantly in the habit of seeing her, that I do not remember when my first interview was. I saw her whenever I could, at intervals of a few days, when business allowed. I was a good deal occupied at that

time. *Q.* Do you remember receiving a letter from her early in the year 1867, with an extract from a newspaper?—Yes. *Q.* Have you that letter?—I have. *Q.* I will take you to the first interview you had with her, when she spoke to you on the subject?—That was long before he arrived in England. She showed me a letter which he had written to her. *Q.* Where was it?—She changed her residence very frequently; but it was either Manchester Street, or some street in the neighbourhood there. *Q.* It was in London?—It was in London. *Q.* You say that she had received a letter?—She showed me a letter which she had received from the defendant. *Q.* Was that the letter dated in January?—I forget the date of the letter. It is the one ending ‘I commend you to the care of the blessed Maria.’ *Q.* That is not the expression; but we know what it was: ‘May the blessed Maria have mercy on your soul?’—Yes, my Lord. **MR. HAWKINS:** Upon her showing you that letter did you say anything?—I remonstrated very strongly with her; and said it was not the handwriting, and it was not the style of Roger Tichborne; and I remonstrated very strongly with her upon her acknowledging him; and her answer to me was, that she was ready to swear to him without even having seen him. I distinctly swear she told me that. As I considered that her opinions—or, as I considered them, delusions—were very strong on that point, I did not combat them; but I said: ‘Do not send any money, whatever you do; you only wish to see the right person—to see what is right; do not send any money. If he is the real man, depend upon it he will not ask for money, but come home without; do not send any money, that is all I ask, more than is absolutely necessary to bring him home.’” He goes on to say: “I may say she refused to show those letters to my sisters. They asked to see those letters, and she refused.” Then I ask: “Did you see the letters in which he calls her attention to his handwriting, and says: ‘I am surprised you have not acknowledged me,’ or something of that sort—‘You know my handwriting?’—I do not know that letter, my Lord; I do not think I have seen it. *Q.* You knew the handwriting?—I knew the handwriting. *Q.* That is of Roger Tichborne?—Of Roger Tichborne, very well. *Q.* And you pointed out to her that this was not his?—It had not the smallest resemblance”—Neither has it, Gentlemen, that we know perfectly well—“But did you tell her that?—I told her that most strongly, my Lord, and that the style was not his; and that that expression about the blessed Maria was so utterly different from what Roger Tichborne’s style was; and her answer was; ‘Oh, he has lived amongst the Irish; that is the way the Irish always finish their letters.’” Gentlemen, I am not aware whether there is any foundation for that statement—whether Irish gentlemen, writing letters to their relatives, are in the habit of ending their letters with any pious hope of that

description; but one thing I am quite certain about, and that is that, although it is true that Roger Tichborne lived among the Irish during the years he was with the army in Ireland, in none of the long series of his letters which we have is there the remotest reference to the "blessed Maria." Therefore, if he acquired that among the Irish he did not use it there, but waited until he received Lady Tichborne's letter in Australia, reminding him that he had been a good Roman Catholic. Mr. Seymour is asked, "Did you see the letter in which he mentioned the card case at Brighton, and the mark on his side?—Yes, I have seen that letter." Then I say, "If I understood rightly she showed you the second letter; the one with the 'blessed Maria' is not the one in which he mentions the card case. Mr. HAWKINS: Did you ever see that first letter about the brown mark and the card case?—I am not certain of having seen the originals; I have seen copies. Q. Did you ever hear of Roger Tichborne being victimised in a card case or a gambling transaction?—Never. Q. Had he, as far as you know, been addicted in any shape or way to gambling?—I do not believe he was: As far as my knowledge extends he certainly was not. Q. You had the control of the funds; I mean as trustee?—Yes. Q. Was there any sum of money paid to extricate him from any card case?—Never: I never heard of any question of the sort; I think Lady Tichborne would probably have spoken to me if she had wished to raise money. Q. You never heard a suggestion about it?—No, and I think it most unlikely." Then I ask, "At that time Mr. James Tichborne was living?—Yes. Q. As I understand, he had the income?—Yes. Q. All she had was the 100*l.* a year to her own separate use?—Yes. Q. Which she could not anticipate?—Which she could not anticipate. Q. So that if any money had been raised it must have been raised by the father?—It must have been: She could not; she had no money." Those are the communications which took place between Mr. Henry Danby Seymour and his sister. They had always been on the most intimate and affectionate terms, and although the relationship was not acknowledged outwardly, yet so far as related to affection and good offices it was never for a moment otherwise than fully and entirely admitted, and therefore it was natural that the brother should, under such circumstances, give her advice; and one would have thought that she would have been willing to accept that advice; but it seems to have been otherwise.

Mr. Alfred Seymour, in like manner, says that in November or December, after it was known that the defendant was coming to England, he was at Paris while Lady Tichborne was there, and that he saw and conversed with her on the subject of the defendant's return. She told him she had received a letter with a photograph. He is asked: "Did she show you either the one or the other?—She refused to do so; or rather, I should say, she promised first to do so and then

refused." He saw her again in the early part of 1867, when she was in London. " Did you make any application to see the defendant?—Many. Q. What were her replies to your applications?—I urged her always to bring him to see me, and she never would. Q. Did you ever see the defendant until the end of July, 1867?—I was never given an opportunity to do so." This cannot but strike one as strange. What is the meaning of this reluctance to let a brother like Mr. Alfred Seymour see the claimant? What is the meaning of the unwillingness to let him see a letter written by the claimant? Mr. Danby Seymour, who saw it, had told her it could not be Roger's, because it was neither his style nor his writing, after which she would not let Mr. Alfred Seymour see the letter any more than she would let him see the defendant. He is cross-examined a good deal as to whether she actually refused. It comes, I think, to this, after a protracted cross-examination, that there was never an actual refusal; that, although she had promised to let him see the defendant's letters in order that he might form his own judgment upon them, she always put him off, and, in point of fact, however anxious he was to see them, he never could succeed in getting a sight of them. What inference are we to draw? Here are two gentlemen, her own half-brothers, men of position, known to be men of honour and intelligence: would not you expect a sister to throw herself on them for advice and protection in a matter of this kind, when a man is coming forward to assert his claim to the Tichborne name and estates under circumstances so strange, with the addition of the difficulties to which I have already called attention as appearing from the correspondence from Australia? Would you not have expected that she would at once have resorted to them, and have leant on them, as it were, in this critical conjuncture? Why is it that she does not? Was it that she was afraid of troublesome monitors that might come between her and the son she hoped to find, and cast a dark shadow over what would otherwise be to her the bright prospect of seeing that long-lost son again? You know it had been the one thought and idea that had possession of her mind from the very hour she heard of the 'Bella' going down, that her son was saved and was living somewhere, and would one day return. She had clung to that hope with a sort of fond desperation. She saw people smile and sneer at her for entertaining a hope apparently so visionary and absurd, but she clung to it with desperate tenacity. As a man clings to a plank in a shipwreck as his only hope of reaching the shore, so she clung to this idea. Now, there was a prospect of that long cherished hope being realized. There came a voice from Australia saying her son was found, and was coming back to be the staff and support and happiness of her declining years, and she listened with eagerness to this story; and, almost against conviction, believed in its truth. The

circumstances were such as ought to have engendered the gravest suspicion in her mind, and now, with this bright prospect beaming before her, when people came and said, "You must not believe in this; it is a delusion, and your hope, though cherished for a while, must, in the end, terminate in disappointment," she looked upon them as people who were coming to stand between her and the realization of that happiness which had been for years her fond and constant dream; and, like anyone whose faith depends upon their own will and determination, and not upon conviction founded on reason and reflection, she would not admit anything which could tend to detract from the confident belief she had in the claimant being her son, and she turned her eyes from any light that might be shed upon the subject. That I cannot help thinking was the position of Lady Tichborne. She may have been right after all. That you must judge of upon the whole of the case. But that she entered upon that inquiry with a preconceived notion, and bias, and determination to look at the thing only in one light, I think you will agree. Far be it from me to say, that if she had had an honest disbelief in the identity of the claimant, she would have acted dishonestly for the sake of bringing about his triumph, and the success of his claim. I do not say that for a moment; I do not believe it, and I was extremely glad to find that no such ground was taken on the part of the prosecution. Neither can I think there is anything to warrant us in saying that Lady Tichborne was insane; that she was even insane to the extent of having a monomaniacal delusion on the subject of her son; or had become so from having what the Abbé Salis called an *idée fixe* upon this point. But she had dwelt upon this one idea, and brooded over it so long, that the Abbé may have been right in saying that she had a *tête malade*, and, although I do not say that she must be taken to have been incapable of reasoning or exercising any judgment upon it, or that her opinion in this matter is not entitled, under all the circumstances, to most careful and respectful consideration, I do say she was placed in circumstances in which her judgment must be open to criticism just as the judgment of any one else would be. She had staked the happiness of her life on this one hope; and it was even more than that. It was not merely that there was the yearning of maternal love for him whom she still believed to be in existence somewhere. There was the vanity of the woman mixed up in the hope that he was her son. She had been looked upon as half crazed on this subject by people who could not take the same view that she did, and she had been reproved by her husband for worrying him incessantly, talking about her son being still living. She had been laughed at by other people for entertaining a belief which seemed so thoroughly irrational under all the circumstances; but now if that son came back there would not only be the mother's joy at finding

him again return to her fond maternal embrace, but there would be the triumph of being able to say, "Here is the crazy woman you all said was mad because she talked of her son and believed in his being still alive, and that he would come back one day. She was right, after all, and you were wrong. Here he is, and with joy and triumphant exultation I take him by the hand, and bring him back to his family as Sir Roger Tichborne, the heir to the title and the estates." Just imagine what her feelings would have been if, after entertaining that hope, and expressing it loudly, and declaring this was her son, he turned out to be nothing but a barefaced impostor. The disappointment and despair which that would naturally have occasioned would have been as intense and deep as the joy of the mother would have been if he proved what she hoped and expected him to be—namely, her son. Moreover, this was her last and final chance of seeing her long-cherished hope realized. If this should prove a delusion all hope of seeing Roger on this side of the grave was for ever gone. Therefore, Lady Tichborne was in a position in which I cannot but think that—unless the other circumstances in the case show that the judgment she formed on the matter was right—her judgment, though it ought to be received with respect as the opinion of a mother, should not be exempted from the vigilant criticism which you would apply to the judgment of anybody else who took upon himself to pronounce the defendant to be the real Roger—a subject upon which you will have to form your opinion, with an advantage, in one respect, which Lady Tichborne had not; namely that you know all the circumstances of this story from beginning to end; whereas many of those things which make most adversely against the defendant were unknown to her, and were carefully kept from her knowledge to the last.

Gentlemen, I have made the observations which occur to me as to the frame of mind in which Lady Tichborne was when the defendant first went over to see her. I told you the correspondence and the oral communications she had had with Mr. Bowker; and it had been arranged up to that time, between them, that Mr. Bowker should look out for her son when he arrived in this country; while, if he arrived at Paris, she was to send to him, and he was immediately to hasten over to her, to give such assistance as he could, with reference to determining whether or not the claimant was really her son. She writes to Mr. Bowker again two or three times upon the subject; she writes to say she has heard her son had embarked on board the 'Cella,' that he was about to come home by way of Liverpool, and begs him to go to Liverpool to find him and bring him over to Paris. Mr. Bowker writes to her on the 26th of December, 1866, which was the day after the defendant arrived, stating that he had ascertained that he had arrived in London, and therefore there was no occasion to go to

Liverpool; but he says he had not been able to ascertain where he had gone to. All he knew was what he had learned in the river at the docks. He writes, "I dare say I shall be able to ascertain where the party is gone to, but whether I do or not, I think you may expect to see me in Paris on Friday morning, or Friday afternoon; the agents appear to have had some reason for supposing that your son intended to leave England forthwith, but did not know where he talked of going to. I conclude, to you in Paris." On the 27th, he writes: "Dear Lady Tichborne, since writing to you yesterday I ascertained from the captain of the steamer, that your son and his party had gone to an hotel, at the west end of the town, and upon going there this morning all that I could learn was that he and his wife had gone out of town for three or four days, but not known where. I have written to him saying that I had called by your directions, and requesting him to make an appointment to see me. I presume he will do this so soon as he receives my note, and I will then arrange with him for leaving London instantly. I do not see at present that I can do any good by crossing the channel, unless your son accompanies or precedes me. I will write again to-morrow should anything take place." That letter is dated the 27th, and it is material in this way: the note to the defendant having been sent to Ford's hotel, where his party were staying, the presumption must be that it reached him, and it takes away all possible pretence for saying that there was any obstacle—such as want of money—in the way of his going at once to join his mother in Paris. Mr. Bowker's writing that note on behalf of the mother, as her representative, was tantamount to saying he would give him any assistance he would want. The defendant took no notice of the note; and I cannot help thinking that the fact tends to strengthen the conviction that his statement that want of money prevented him from going to Paris was a mere pretence. The note is: "I have received directions from the Dowager Lady Tichborne to see you on your arrival in England, and if you will have the goodness to make an appointment, I propose to have the pleasure of calling on you." Then, on the 28th, the Dowager writes this letter: "I have just received your letter, dated the 27th, and I regret very much your not sending me my son's address. Had I known the name of the hotel where he is staying, I would have written to him immediately, but being ignorant of where he is, what can I do? he ought to come here to join me, as it is the safest place for him. I am afraid he will find snares laid in his way in London, and I am very desirous that he should come immediately. I beg you to send me the name of the hotel where he is, that I may write to him and ask him to come to me; I am his best friend. Alas! very few people are my poor Roger's friend." She adds: "I cannot think why Sir Roger does not come to join me in Paris, it is the safest place for him; he ought to be near me.

I wish I could draw him away from London, where he has so many enemies; I am excessively anxious at his remaining in London. It is entirely a mistake on your part not to have sent me the name and address of the hotel where Sir Roger resides, though I have no doubt your intentions are very good."

On the 29th, Mr. Bowker called at Ford's hotel and saw young Butts and was told by him that Sir Roger was going to Paris by way of Havre. That was an untruth, because at this time, the 29th of December, the defendant was going to Alresford—it was the very day he went to Alresford—therefore certainly at that time he had no intention of going to Paris. Butts may have been deceived, at all events he misled Mr. Bowker. Mr. Bowker, supposing young Butts's statement to be accurate, determined on starting for Paris, believing that in so doing he was carrying out Lady Tichborne's wishes. He writes on the 29th of December: "I have not heard anything more of your son, since my last letter, until this morning, when I succeeded in meeting with the young man who calls himself his secretary. All I could get from him was that his master was gone into the country, and at last he told me that he believed he was going by way of Southampton to Paris, and that he thought it very likely he might reach there to-day. Under these circumstances I have deemed it advisable to cross the channel to-morrow, Sunday night, and I hope to be with you at an early hour on Monday morning. I hope you will not part with any money until my arrival, and am, dear Lady Tichborne, yours very sincerely, Jas. Bowker." He left accordingly by the mail train on Sunday night, the 30th of December, and arrived the next day, December 31st, and waited till the 3rd. During all this time Lady Tichborne was most anxiously expecting to hear from the claimant, and exceedingly surprised and distressed that no tidings of him came. Mr. Bowker told her he had used his utmost endeavours to ascertain where he was, but had failed to do so. He had not been able to see or hear of Bogle; and the only person forthcoming and visible at the hotel was the secretary. Lady Tichborne was a good deal put out at this. Mr. Bowker visited her each day, for two or three days, and still no tidings of the claimant came; and in the course of the visits he was introduced to the Abbé Salis. She told Mr. Bowker the Abbé Salis was prepared to swear to her son. But the Abbé Salis corrected that and said: "That is after I see him: if he turns out to be your son, I will swear to him; but if not, I certainly will not."

Tired of waiting, Mr. Bowker leaves on the 3rd of January, up to which time nothing had been heard of the defendant. It was arranged that in the event of the defendant coming, she should send for Bowker on his arrival; he was then to start immediately for Paris. With that understanding, he says, he left Lady Tichborne in Paris. On

his return to London he received information, which he conveys to Lady Tichborne in a letter of the 5th of January: "I arrived in town late last evening after a tedious journey. I hear that your supposed son and Bogle went together to Alresford—your son went to Tichborne and disclosed himself to some of the tenants and labouring men, all of whom denied any knowledge of him. Bogle denied that your son was there, or that he knew where he was to be found, and at the very time your son was sitting in the adjoining room at the inn in Alresford. They immediately afterwards left together, and it is supposed, for London. Your son appears to pass under the name of Taylor. All this concealment is most unsatisfactory, and I am unable to offer any clue to the mystery. I hold myself, as I told you, in readiness to go to you at any moment." The day on which she gets that letter she writes to the claimant, treating him, without the slightest reservation, as her son, although she had not yet seen him: "My dearest Roger and beloved son, I am most anxious to see you in Paris, will you come and see me immediately? I hope you will bring me your wife and your little girl. Will you write to me a few lines to let me know when you mean to start? I have an apartment prepared for you, and I trust you will live with me. I will pay all your expenses in Paris of course; and you must not forget the bill you have put your signature to, before leaving Sydney with Mr. Cubitt. I will see that it is all paid, but you must come to Paris immediately. Have you heard from Mr. Gibbes? and have you received the letter I wrote to you 3 days ago? Adieu my dear and beloved son I remain your affectionate mother H. F. Tichborne." Mr. Bowker writes on the 8th: "Dear Lady Tichborne, I wrote to you by Saturday's post. Since then I have been told that on that day Mr. Gosford, Mr. Cullington, and Mr. Plowden, having ascertained that your supposed son was at an hotel at Gravesend, proceeded there together. He was at first denied, but shortly afterwards he passed Mr. Gosford on the stairs very quickly, ran into a bedroom and locked himself in. Mr. Gosford spoke to him on the stairs, and received only a hurried answer. Mr. G. then insisted on your son writing him a note, which he did in the presence of the waiter. This note merely said that he had written to Mr. Gosford making an appointment to see him at the hotel in London. This turns out to be untrue. This note was badly written and spelt, and the writer in no respect resembles your real son when he left England. In fact Mr. Gosford is satisfied that he is a mere pretender. I repeat all this as it has been told to me. I hope that if this person should come to you in Paris you will instantly telegraph for me, and that you will not, under any pretence, part with money until I arrive. I cannot too strongly urge upon you the necessity of your immediate return to England. Please let me

hear from you by return of post, and in the meantime believe me," and so on.

On the 9th of January, a meeting took place at Mr. Cullington's office, at which Mr. Bowker and Mr. Gosford were present, with Whicher, the detective, who appears afterwards to have taken an active part in tracing out the facts of the case and the proceedings of the defendant. The result was that Mr. Bowker determined to return to Paris, and he started the same evening. He saw Lady Tichborne, and repeated orally to her the information he had acquired, and which he had told her in the letter I have just read. But he found her in a state of excitement, and much incensed against Mr. Gosford; she was very angry with him for having declined to recognise her son, as though it had been a matter of absolute duty and obligation on the part of Mr. Gosford to do so. Mr. Bowker tried to soothe her, and after a time she quieted down. While they were conversing, two letters were brought in, one from the claimant, another from Mr. Holmes, announcing their intended arrival that day, the 10th. She gave those letters to Mr. Bowker to read. They were of a commonplace character, simply announcing their arrival. When she got the letters stating that they were to be in Paris that night, she turned to Mr. Bowker, who had gone to Paris by her express direction—inasmuch as she had desired he should be there, whenever the person who claimed to be her son made his appearance—and told him that "as her son was coming with his own solicitor, most likely introduced to him at Sydney or from Sydney, she would be unable to introduce him to her son." He understood her, and said, "I presume, Lady Tichborne, from that that you have no further occasion for my services, and she said that was what she meant." Thus at this critical conjuncture, her own solicitor, whose services she had herself sought, whose presence she had herself desired, and whose assistance would have been so material to enable her to form an accurate judgment, is discarded just at the moment he is most needed, under the pretext that the son whose identity was about to be tested, was bringing his own solicitor. A very strange course for the lady to adopt. To make the thing more complete he is asked: "Did she at all complain of your having come to Paris?—Not at all. Q. She seemed to think that right?—Quite so; it was contested afterwards whether she had authorized me. Q. But at that time she did not find fault with you for having come?—Not at all." I cannot help thinking from the feelings I endeavoured to develop just now, that she was glad to be rid of a troublesome monitor. She did not want anybody who might exercise a critical judgment on the matter, or who might stand between her and the belief she was anxious to arrive at. So Mr. Bowker was got rid of.

The defendant arrived at Paris, and he arrived with somewhat strange accompaniments. The son coming over after so many years' absence to see his mother for the first time since he went away, one would have thought he would have desired to meet her alone, and would not have wanted two strangers to be present at an interview of that description. Both parties would be likely to feel very strong emotion, and to display it, and would not wish to display it in the presence of strange witnesses. What the defendant did was this: he had already retained an attorney, who had been introduced to him through a Mr. Leete, a gentleman whom he had met casually at some billiard table. Mr. Leete introduces Mr. Holmes, and when the defendant makes up his mind, somewhat tardily, on the 10th of January, to go over to see his mother, he requests the company of the friend thus casually picked up, and of the attorney. They are to be present at the first meeting he is to have with the mother. They arrived at the Hôtel de Lille et d'Albion, in the Rue St. Honoré, late in the evening. The defendant does not go and see his mother that night—not that it was too late to do so, though no doubt it was getting somewhat late—but he was tired. I say nothing about that, but one would naturally suppose that the first thing he would do in the morning as soon as he was up, would be to hasten to Lady Tichborne. There was the anxious mother, knowing her son was in Paris, expecting him. However, he does not go. She sends her servant, the man Coyne, who was examined here as a witness, to the hotel to fetch her son. Coyne sees Mr. Leete. Mr. Leete calls out Mr. Holmes; Mr. Holmes goes into the defendant's room, and brings out word that the defendant is not well: he was sick, or he had been sick, and had not recovered from it. Coyne takes back the message; and now Coyne shall tell you in his own words what ensued. “What did she,” that is, Lady Tichborne, “say?—She told me to go back directly and demand to see him. Q. Did you go back?—Yes. Q. When you got back what happened? Did you see him?—I saw both Mr. Holmes and Mr. Leete. Q. Who else—any body else?—When I told them I was sent back the second time by Lady Tichborne, and I wished to see him and fetch him, Mr. Holmes went into the bedroom again, and the claimant came out walking slowly, with his head a little down, towards the fire, and he sat down in the chair in the dining-room, and I welcomed him home to England. He commenced tearing”—Mr. Gibbes called it “watering;” this Irish witness called it “tearing.”—“I said, ‘Thank God his mother was alive to receive him,’ and he says, ‘Thank you.’ Q. What did he do?—He told me then to tell his mamma he was not able to go to see her. I went back the third time. Q. Did he say anything?—He told me—— Q. Not what he told you, did he do anything?—The answer was from him to me to go back the

second time. *Q.* Did he give you a reason?—No. *Q.* Did you go back to Lady Tichborne again?—Yes. *Q.* About what time of the day was this?—This would be about, as near as I could say, between eight and nine. *Q.* In the morning?—Yes, it might be that. *Q.* When you went back to Lady Tichborne and told her that, was there another message sent?—She told me to go directly, and take a cab and fetch him. *Q.* Did you go again?—I asked if I could not fetch him a second time; she told me to ask them would they come up to see her, or she come down to see them, and get a distinct answer. *Q.* Did you go down a second time?—Yes. *Q.* Did you deliver that message?—Yes. *Q.* What was the answer you got then?—The claimant, and Mr. Holmes, and Mr. Leete, were having their breakfast then; they told me to sit down: I did so. I thought after he would finish his breakfast he would come back with me. When the breakfast was finished, the claimant went into the bedroom, and Mr. Holmes and Mr. Leete came with me, and locked the dining-room door. *Q.* Do you mean you, Mr. Holmes, and Mr. Leete, went to Lady Tichborne?—Yes, and locked the dining-room door—locked him in like. *Q.* Was the claimant inside?—I saw him going inside the bed-room when we were going. *Q.* Have you to go through the dining-room to get to the bed-room?—Yes.”

So the claimant goes into his bed-room, having had his breakfast, which he did not seem to be sufficiently indisposed not to be able to eat. Then Mr. Holmes and Mr. Leete go with the witness, Coyne, to Lady Tichborne, having locked the door outside and so locked the claimant in. They go to Lady Tichborne and make his excuses, that he cannot come to see her because he is too poorly. In the course of the day Lady Tichborne, finding he will not come to her, goes to him. If the mountain will not go to Mahomet, Mahomet must go to the mountain: the defendant would not go to see Lady Tichborne, so Lady Tichborne goes to see him. Then Coyne tells us that, instead of the son and mother rushing into one another's arms with a fond embrace, a most extraordinary scene took place. This is Coyne's account: I daresay you remember it, for there never was an account given which was so likely to make an impression, from the remarkable manner of the man and his wonderful brogue, which I never heard equalled in the whole course of my life, and which made it almost impossible to maintain one's gravity while he was giving an account of what passed, especially when to that is superadded the singularly ludicrous character of the story itself. He says: “Lady Tichborne walked into the bed-room where he was, me and Mr. Holmes walked in after her. The bed was in the corner of the room, and he was lying on the bed with his clothes on him. *Q.* In the bed or on the bed?—Over the bed; the bed clothes were under him, but he had his own clothes

on him. Q. Just tell us how he was lying on the bed?—He was lying with his face under him, turned in towards the wall.

Q. Did he turn round?—She reached her head over him in the bed like that (illustrating), and kissed him. Q. Did he turn

round?—He stopped as he was, on the bed. Q. Do you mean with

his face to the wall?—Yes. Q. Where did she kiss him?—On the mouth, I believe, or the cheek. Q. Did she say anything?—Yes.

Q. What did she say?—She said that he looked like his father, and I think she said his ears looked like his uncle's. Q. How long did

you remain there?—As soon as she said the word, then she turned round, and I was standing close to the foot of the bed. She told me

he was nearly stifled, and I took his clothes off and undid his braces; I did not take his clothes off. Q. Had he his coat on?—Yes.

Q. Did you do anything to his coat?—I managed to pull him over towards me as well as I could. Q. Did you take his coat off at last?

—Yes. Q. Do you remember any conversation at all?—She told me to put some coals on the fire. Q. Did you hear any conversation,

anything said?—Mr. Holmes said to me, 'You witnessed that Lady Tichborne identified her son,' and I said 'Yes, so did you hear what she said.'

Q. How long did you remain there?—About ten minutes or so, as near as I can guess. Q. After that, did you ever go again

with Lady Tichborne there?—She told me to go home that time; she remained there with him. She told me to go home and come

for her between nine and ten o'clock and fetch her home; and I did in a cab. Q. Did you hear him say anything during that time?—

Not that time. THE LORD CHIEF JUSTICE: Did he remain lying on the bed the whole time?—While I was there he did."

The following is the defendant's account, and I do not know that it differs materially. Having said he went with Mr. Leete and

Mr. Holmes, he is asked, "Who is Mr. Joseph Leete?—He is one of the firm of Leete and Baillon, or some such firm as that, at

St. Mary-at-Hill. LORD CHIEF JUSTICE BOVILL: Leete and what?

—Leete and Baillon; he is agent for Mr. Allsopp. Q. Mr. Allsopp, the brewer, do you mean?—I really do not know, my lord; yes,

the brewer; he is a continental agent, I think. MR. GIFFARD: Mr. Holmes was your solicitor?—Yes. Q. Just tell me; had you

at any place seen Mr. Bowker at that time before you went to Paris?—I might have seen him; I did not know Mr. Bowker at

that time. Q. Well, when you got to Paris where did you go to?—I went to the Lille et d'Albion. Q. Did you see your mother the

same night you arrived or not?—Not the same night. Q. How came that to pass?—It was late. Q. When did you see her?—The

next morning. Q. Did you go to see her, or did she come to see you?—She came to see me. Q. How was it that that happened?—

I was unwell. Q. About what time of the day was it that she saw

you?—I have no idea what hour. *Q.* What was the matter with you? Were you very unwell, or what?—I was very unwell indeed.” —We are not told what was the matter—“Just tell me, so far as you remember, what passed: when your mother came, did she recognize you at once, or not? **LORD CHIEF JUSTICE BOVILL:** Describe the scene as nearly as you can, if you would be kind enough; you will not be much longer under examination; be kind enough to describe clearly, distinctly, and slowly, exactly what occurred?—I do not know that I am really able to do that, my lord. **LORD CHIEF JUSTICE BOVILL:** ‘I do not know that I am able to do that!’ Do you mean you do not know that you are able to describe what occurred?—Not when my mother first entered the room. *Q.* Give us the best account you can; you have not much longer to remain under examination?—I am very glad to hear that, my lord. The first thing I remember—— *Q.* Tell us in your own way your account of what occurred at that interview?—My mother was standing alongside the bed when I was laying on it. *Q.* When I was what?—I was laying on the bed, and my mother was standing alongside of it. **MR. GIFFARD:** As nearly as you can remember, tell us what happened?—I am not aware that anything happened: I was attended by a medical man. *Q.* Well, did you speak to her, or did she speak to you?—I could not say who spoke first; we did speak. **THE LORD CHIEF JUSTICE:** You drop your voice so, I cannot hear what you say?—I cannot tell which of us spoke first; but we conversed for a long while, I remember that. **MR. GIFFARD:** Can you tell me whether she recognized you at once, or after a time, or what?—I cannot say. **THE LORD CHIEF JUSTICE:** I do not hear?—I cannot answer that question, my lord; I cannot say. *Q.* ‘I cannot answer that question,’ is that what you say?—Just so, my lord; I do not want to give an answer to a question that I do not know of. *Q.* I only want to know what you say?—That is exactly what I say, my lord.” Then the witness says, “I do not know what is the question. **MR. GIFFARD:** He asks for the question to be repeated. **THE LORD CHIEF JUSTICE:** Can you tell me if she recognized you at once or after a time?—I cannot say; I do not know. *Q.* Is that the answer you give?—That is the answer to it, my lord, and therefore I cannot say: there were others in the room, who will be able to give a better account than me. **MR. GIFFARD:** I was going to ask you who else was in the room?—Mr. Holmes was in the room, and Mr. Leete. *Q.* Mr. Holmes and Mr. Leete were both in the room: Anyone else?—I am not certain whether Dr. Shrimpton was there or not; I know that Sir Joseph Olliffe was sent for afterwards, and I believe Dr. Shrimpton was present at the time. *Q.* You believe that Dr. Shrimpton was present at the time, and you know that Sir Joseph

Olliffe was sent for afterwards?—Yes.”—According to Coyne’s account it would not appear that any medical man was present, but the question was not directly put to him.—“Q. Were either you or your mother affected at the interview?—Yes, I believe we were both. LORD CHIEF JUSTICE BOVILL: I must ask you to be kind enough to repeat those words.—I think we both were. MR. GIFFARD: I think you say you were engaged in conversation with her for some time?—Yes. Q. Did she in words express any doubt about your being her son?—Oh, not the slightest. Q. How long did that interview last? Till late in the morning, I think. Q. Were the gentlemen you mention present during the whole of the interview, or only during the first part?—They were there during the day. Q. They were in her company during the day, or whether they went out a little while?—I suppose they did, but I do not remember it distinctly.”

That does not differ very much from the account given by Coyne. If it did the observation made by the defendant is an observation which may be repeated now. There were others in the room who might give a better account of it. Mr. Holmes has not been called, and there may be good reason for not calling Mr. Holmes on the part of the defendant. He has entirely separated himself from his cause and his interest, and I think it cannot be doubted he has given some information to the other side. But Mr. Leete is not mixed up in this matter, and, if there was anything in the narrative which admitted of contradiction, there was Mr. Leete who was present, and might have been called.

Now, the defendant says he was ill at this time. It was singularly unfortunate that at that critical juncture, as was the case on one or two other important occasions, the defendant should have been ill when it was most desirable he should be well. Certainly it is a strange account of the meeting between a mother and a son under the peculiar circumstances in which mother and son were placed. One would have thought if there remained one spark of life in the man, if there was one particle of strength and energy left in him, the presence of the mother who was so anxious to see him, and whom he had not seen for so many years, would have given him sufficient strength at all events to enable him to rise and throw himself into her arms. But you have the defendant going to bed with his clothes on, lying on the bed with his face turned to the wall, making no sign of movement or life when the mother comes to embrace him, and saying nothing. He lies on the bed with his face turned to the wall, so that she has to stoop over to kiss him, her only observation being, “Poor Roger, his face looks like his father’s and the ears are like his uncle’s.” And all this in presence of the Irish servant, and the gentleman picked up at the billiard-room, and Mr. Holmes the attorney, with whom he had

become acquainted in the last few days. The whole thing presents the appearance of something which might be told in one of the drollest of Smollett's novels. It seems certainly a strange meeting.

Another question here presents itself. What reason can be given for having taken over the attorney and Mr. Leete on such an occasion? Their presence, one would think, would be superfluous and unpleasant, and, even if they had been taken to Paris, one would not have supposed that they would have been allowed to be present, when the son and the mother first met. The defendant says they went with him for the purpose of protecting him, because at this time the opposition to him was so great that he felt himself to be unsafe, and therefore he took those two persons over with him to Paris. But at this time no opposition had been made to him by any one, with the single exception of Mr. Gosford, who had been down to see him with Mr. Cullington and Mr. Slaughter in the manner I have adverted to, and which I think was wrong. But there was nothing else which I think would make him take a solicitor and friend, and one cannot readily explain what motive there could have been, consistently with his being the son of the lady he was going to see, for taking these persons with him. It may possibly be suggested that he was apprehensive of facing the coming interview alone, and felt the want of support. But why should this be so if he knew he was going to meet his own mother? Why should he entertain any fear of the result of such a meeting? It is altogether a strange proceeding.

Let us follow the subsequent course of events. There were at Paris several persons quite competent to form a judgment whether the defendant was Roger Tichborne or not. There were some of the old friends still living. Death had removed some, but others were still there. Chatillon, the Abbé Salis, M. D'Aranza, the Vicomte de Brimont, the Père Lefevre, the confessor of Roger Tichborne for so long a time, were at Paris, and might have been called upon by Lady Tichborne to say whether this was her son or not. The only person allowed to see him was Chatillon, who says that Lady Tichborne held this sort of communication with him. He says she came to him and said, "‘Chatillon, I have come to see you, and to ask you to come with me immediately to recognize Roger, who has come back.’ I said, ‘Certainly, if it is your son it will be a great satisfaction for me to see him after such a long absence.’ And then I asked her for a few minutes to take my *déjeuner*, which I had not then had. She said, ‘No, you must come at once.’ I then went downstairs with her, and got into her carriage, in order to go to the Hôtel de Lille et d’Albion. On the way thither she said, ‘I hope, Chatillon, you will recognize my dear Roger,’ and I said, ‘Certainly, madame, if it is he, but, in the contrary case,

I will tell you no.” They got to the hotel, and he took the very sensible precaution of suggesting to her not to mention his name to her son, because if there was any one Roger Tichborne was likely to recollect it would be Chatillon, who had been his tutor, as you know, in his boyhood, and with whom he had breakfasted the very last day he was in Paris; but he says the moment they got to the apartment where the defendant was, instead of acting upon his caution, she immediately said, “Sir Roger, here is M. Chatillon.” Then he says: “On the first impulse of the moment I addressed him and said, ‘My dear Roger, I am very happy to see you after so long an absence,’ but afterwards I stepped back three paces; I looked at her supposed son, and I said, ‘My lady, it is not your son, it is not so.’ She said to me, ‘You do not embrace Roger.’ I said, ‘No, my lady, it is not he; you are deceived.’” He says, “there were there the lawyer, Mr. Holmes, and an interpreter”—that was Mr. Leete, who was familiar with French, and he called him an interpreter—“She said to me, ‘He does not speak French any longer.’ I repeated again, ‘Well, it is not Roger.’ I then asked her to be good enough to let me have some *déjeuner*, because I had not had mine, and she had finished hers. I then sat down in front, the interpreter by my side, and I asked many questions.” The questions were asked in French, and were interpreted by Mr. Leete. This was when he had done his breakfast. Then he says he asked the defendant this question, “With whom did you breakfast and dine the last day you were at Paris?”—We know with whom he breakfasted and dined, if the evidence is to be relied upon. He breakfasted with Chatillon, and dined at his father’s house—there was a farewell dinner to the few friends Roger Tichborne had in Paris the night before he left—“He said he did not know. Then I asked what chain he had on on leaving, and he said, ‘it was a gold chain’”—Here, again, we know from Chatillon that Roger left his gold chain behind, and Chatillon went to the shop *au régulateur* and bought a silver chain, which Roger wore and took away with him—“I asked him if he recollected the trips we had made in Normandy, to Pornic, and in Brittany. He answered, ‘No, I do not know; I do not remember;’ and madame said to me, ‘Chatillon, you must not ask him any more, because he has seen so many things that he no longer remembers anything’”—Such was the convenient view which Lady Tichborne had adopted—“The claimant had, all the while my questioning lasted, his head hidden with his pocket handkerchief. He was hiding his face with his pocket handkerchief in order that I should not see him, and after that he got up and left, and I saw him no more.”

Now this was on the Monday, and, with a view of having another interview and a further opportunity of judging, M. Chatillon invited Lady Tichborne and the claimant to come and have their *déjeuner*

with him on the following Thursday. Lady Tichborne declined that, and said that, instead of their going to lunch with him, he had better come and lunch with them at the hotel; and, accordingly, it was so arranged; he was to come on the ensuing Thursday, and take that meal with them; but in the meanwhile he gets a message from Lady Tichborne, putting the party off, and so the thing did not take place. Being desirous to see the claimant again, he goes a second time to the hotel, and there he sees Mr. Holmes, and Mr. Holmes says he cannot see the defendant; that the defendant was ill, and could not be seen. So he did not see him, and had not the opportunity of another interview. On cross-examination he is asked whether the interpreter did not ask the defendant this question, "Do you remember Chatillon?" He says, "No, the interpreter did not ask that question. Q. And did not the defendant say, 'Most certainly, I should have recognized him anywhere?'—Yes, he did say that; after my name had been told him he said, 'I would have recognized him anywhere.' The LORD CHIEF JUSTICE: Repeat that, if you please. He said, 'Certainly, I should know M. Chatillon amongst a thousand persons;' but he already knew my name, which Lady Tichborne had told him. Q. Do you remember Lady Tichborne saying to you at their interview, 'Do you know Roger, do you recognize him?'—Yes, she asked me, 'Do you recognize Roger?' Q. What answer did you make?—I said, 'No, it is not your son.' Q. Did you not say, 'I must search, I must reflect, I must think?'—I said, 'Between this and Thursday' (that is when it was proposed the meeting should take place again) 'I might perhaps remember something.' Q. My question is very distinct. Did you not say, 'I must search, I must reflect, I must think?'—Certainly, I said, 'I must think from now till Thursday; I may think of something.' Q. Did not Lady Tichborne then say, 'Surely you can say whether you recognize my son or not?'—No, she did not say so."

Then he is asked about an important matter. We know that when they went to Pornic, Roger Tichborne, after bathing in the sea there, had a fall which seriously hurt him at the time. Chatillon says that, in this conversation with the defendant, he put questions to him about the trips to Normandy and Brittany, and amongst them about this trip to Pornic, when the defendant said he did not remember going to Pornic. Hereupon Chatillon expressed surprise, and mentioned the fall that Roger Tichborne had there, and the effect that it produced upon his head, which he represented as a sort of indentation made in the head from the blow against the rock, and he described it by squeezing his hat together, making a sort of vacant space, or apparent hollow, which he showed as being like the mark made on the head from the temporary pressure; the effect, he says, being, not to cause

a wound, or a cut—but simply an impression on the substance of the head, so that afterwards, when the effect of the blow had ceased, this appearance ceased also, and there was no scar at all. When he spoke of the blow and tried to represent its effect by squeezing his hat together, the defendant said he had a scar at the back of his head; and the scar was searched for in M. Chatillon's presence, but they could not find it; but the defendant says it was found the next day by a hairdresser who came to cut his hair, and it appears that there is a scar at the back of his head. How that scar was produced is another and a different question. Chatillon's statement is that no scar resulted from the accident at Pornic, because there was no cut or wound. The fact that the defendant has a scar at the back of the head, which he says was produced by the accident at Pornic, is one of the things we shall have to consider by-and-by. Chatillon says, "At the time I asked the claimant if he remembered the fall at Pornic, he answered, no, he did not remember it. I then said to Lady Tichborne, 'It is astonishing,' and then I showed by my hat what it was."

But the defendant gives a totally different account of the interview with Chatillon. There was a long contest between him and the Solicitor-General, much too long to follow up, as to whether he knew Chatillon was coming or whether he did not. In the end, however, he admits that he knew Chatillon had been sent for, and does not deny that Chatillon was announced by name and presented to him by his mother. He denies that he had a handkerchief to his face; at all events, he says he does not remember it. "No doubt," he says, "it is the information of your spies, so I have no doubt it is correct. It appears I had a handkerchief to my face even in my own private room. Q. Who was present?—Mr. Leete, Mr. Holmes, my mother, Chatillon, and myself." Of course there could not be a spy among these, so the suggestion that the fact had been suggested to the Solicitor-General through the medium of a spy is simply absurd. The SOLICITOR-GENERAL: "Then it is just possible I may have information without a spy: do not talk about spies to me, but answer me whether you were holding a handkerchief up to your face?—How is it possible for me to recollect? Q. Do you recollect whether you had or not?—I do not. Q. Did Chatillon ask you some questions?—I believe he did. Q. Did he speak French to you?—Yes, and some words in English." Then follows a long discussion as to whether Chatillon at any other time spoke any English to him or whether he did not. They get into a wrangle, and the defendant asserts that the Solicitor-General is trying to make him perjure himself. He says: "I am aware you are trying to make me perjure myself, and I am trying not to do it. No doubt you are perfectly capable of inducing a person to do so." That was a flagrant insult

to the Solicitor-General, and Mr. Serjeant Ballantine seems to have been ashamed of it, and says, "Keep yourself to answering the questions?—No, I will not." Then there are some very coarse observations on Chatillon for having eaten his breakfast and made so substantial a meal as the defendant represents.

The Viscount de Brimont, who was a near connection, was also at that time at Paris. I do not know if I am justified in saying he was a cousin; if he was he was a distant cousin. Still he was treated as a relation. He resided in the Place de la Madeleine, and was on very friendly terms with Lady Tichborne, and was in the habit of going frequently to see her. He says: "I went several times to see her, and I took my wife to her several times. Q. Were your visits of frequent occurrence?—Yes. Q. Do you remember hearing her speak of her anticipation of Roger Tichborne coming back?—Yes, she told me she was expecting Roger; he had written to her, and sent his photograph, and that he would come home very soon; and I asked to see his photograph, and she said, 'Oh, he is very much altered; you would not know him again; there is no use showing you his photograph.'" And she never did show him the photograph. He is asked: "Did you tell her—I do not know whether she knew it before—at all events, did you mention to her the fact that you had been at Stonyhurst?—Oh, she knew it. Q. She knew it?—Perfectly; and I said to her, 'If Roger has come home I shall be very glad to see him, and I shall soon make out if it is him or not.' And then she said, 'But you have no right to do that, and if you wish to please me you will see him indoors without speaking to him, and you will testify that it is him.' 'Oh,' I said, 'my lady, you do not think what you are asking me.' Mr. JUSTICE LUSH: I said, 'If Roger has come home I shall be very glad to see him?'—'I shall be very glad to see him, and I shall very soon make out if it is him or not.' Then she said, 'You have no right to do that. I do not acknowledge you the right of doing that.' We spoke in French. She always spoke French with me, and she said to me, 'You have no right to investigate my son in that way; but if you like to do something to please me you will see him indoors without speaking to him, and you will testify that it is him.'—'Well,' I said, 'my lady, you do not think of what you are asking me;' and from that day I never was admitted any more to see her. I saw her at the window from our apartments, and I called several times to see her, but never was admitted. I was told her son had come, and had been recognised by her, but of course I did not trouble myself about it at the time. I knew he had been recognised at the Hôtel d'Albion, but I did not think of going there myself. I never was asked by anyone, and I never saw his mother afterwards."

The Abbé Salis, who had known him ever since the year 1839,

and had been upon the most intimate terms, was asked by Lady Tichborne to go and see the claimant for the purpose of recognising him. He said No, he would rather not. He knew what had passed with Chatillon. He was assured by Chatillon, who had seen the defendant, that he was not Roger; besides which he felt assured it was not Roger, because Roger would certainly have come to see him, and, being thus certain, he knew that if he went to see him, he should come to the conclusion he was not the true Roger, and so should offend Lady Tichborne; so he declined to go. Then he says she held out to him the prospect of some reward if he would come and acknowledge her son.

Now, very strong observations have been made on this, and the learned counsel for the defendant has gone the length of saying with regard to the Abbé Salis, that the statement of this venerable-looking Abbé—for certainly there never was a man whose exterior was more calculated to impress one than this French priest—who looked like one of the Frenchmen of the old school one has been more or less taught to respect—was wholly untrue, and applied to him the very offensive and opprobrious term of “infamous priest.” The statement that the witness makes in this respect may be open to observation, but why the term “infamous” should be applied, and why the term should be applied in connection with his calling, which is one that even those that do not belong to that particular religion ought still to speak of with respect—why the Abbé Salis is to be termed an “infamous priest” because the learned counsel does not like his evidence I own I do not quite see. One cannot but regret that opprobrious and offensive terms should be thus carelessly and recklessly bandied about. It does not tend to the elucidation of truth or the proper administration of justice, nor is it consistent with that delicacy of feeling and sense of justice which characterizes the English Bar, and which one does not often see violated, and certainly I have never before seen violated to the extent to which it has been carried in this case. I did not understand the Abbé Salis as meaning that this was an offer of a personal bribe to him, but that, as he had been for a long time the means of distributing the charity of Lady Tichborne, who appears to have given away very much in Paris, where it is very much needed among the poor—for they have not the same poor laws we have here—as she had been in the habit of giving him money for the purpose of distribution—the Abbé meant to say, not that she offered him a direct personal bribe, but assured him of her continued bounty for the purpose for which he was anxious to obtain the pecuniary assistance of the rich, namely, the benefit of the poor.

Now one of the difficulties which stood in the way of Lady Tichborne being satisfied of the claimant being her son, to which I have

adverted, was the reference he had made, or the message he had sent, to his supposed grandfather. Twice in her letters she says: "Roger never knew his grandfather, his grandfather was dead before I married his father." That ought, of course, to have startled her, and appears for the moment to have done so, and one wants some explanation of this, as to how it occurred and what he could possibly mean. It was very proper, therefore, that the defendant should be asked for his explanation when he came to be cross-examined. The passage from the letter is read "he never knew his grandfather." Then he is asked this: "You see that Lady Tichborne there says 'he never knew his grandfather; Sir James's father was dead even before I married his father;' had you sent a message to your grandfather?—I spoke of my grandfather. Q. Had you sent a message to your grandfather?—No, not a message: I think not. Q. Will you swear you had not?—Well, no. Q. Take care?—I will take care; I am here for that purpose, and to speak the truth, I have no other object. I say that my mother is mistaken, for I knew Mr. Seymour of Knoyle, who was my mother's father, well: If he was my mother's father, surely he must be my grandfather." Thus, you see, the turn he gives it is this. It is true I spoke of my grandfather, and it is perfectly true if I had spoken of my paternal grandfather I should have talked nonsense, because my paternal grandfather I never could have known. My mother's answer is true, he was dead before my father married her; but the person I meant was Mr. Seymour of Knoyle, who was my mother's father, and therefore must surely have been my grandfather. Q. "Had you sent a message to your grandfather?—I cannot say what I sent; if I did so, produce the letter, and let it be read out"—Unfortunately the second part of that letter was not capable of being produced, unless by him, and it was not produced, and consequently not read—"Had you sent a message to your grandfather?—Is it possible that you can call on me to remember every sentence I have written, and every sentence I have spoken throughout my life? I say it is an impossibility for any man to do it. I will give you what information you require as far as it is within my knowledge? Q. Had you sent a message to your grandfather?—I cannot answer that question, my Lord: what am I to do? He will ask me presently will I swear it; I am already on my oath; every word I speak I swear to. I am perfectly aware he wishes to bewilder me, to make me tell something which I do not intend to say; it is not my intention to do so." The Lord Chief Justice, instead of rebuking him for observations so offensive to the Solicitor-General, very mildly says, "Only attend to the questions and endeavour to answer them, and do not say anything except what you intend to say.—That is what I wish to say. The SOLICITOR-GENERAL: The question is a very simple one: Lady Tichborne says

‘he never knew his grandfather; Sir James’s father was dead even before I married his father:’ had you sent a message to your grandfather?—I cannot answer that question. *Q.* You will not swear you had not?—Well, if you say I did, it would be nonsense to say I did not. **LORD CHIEF JUSTICE BOVILL:** The question is, what do you say about it?—What am I to do? **The LORD CHIEF JUSTICE:** It is a very simple matter.—It might be simple to you gentlemen who are so well learned in the law, but I am not. **The LORD CHIEF JUSTICE:** It is not a matter connected with law at all; you may not remember the thing, and you may say so; your memory may be sufficiently good to remember?—Interrupting your lordship, I know not what I write in any letter I have ever written.” He goes on for some time, and then the Solicitor-General says: “I ask you had you sent a message to your grandfather?—I cannot answer. *Q.* Do not say I am trying to bewilder you——” **The LORD CHIEF JUSTICE:** The question is plain and very intelligible.—I must answer that I do not know whether I did or not, my lord.” Again the passage from the letter is read, and again he is asked the question, and he says “I cannot answer that question.” Having said that he intended at all events (whatever message he may have sent or heard) to refer to Mr. Seymour, his maternal grandfather, he is asked this important question, and it bears not only on the meaning of that letter, but also on the question of identity with Roger Tichborne, because we know that Roger Tichborne never did speak of Mr. Seymour as his grandfather. “Do you mean to say, upon your oath, that the relationship between the Dowager Lady Tichborne was so acknowledged that you spoke of Mr. Seymour as your grandfather?—Yes; on my solemn oath—the very words you are saying I instructed my attorney to say, and he will produce them in writing—that I always called him Mr. Seymour, although he was my grandfather; if you wish it he will produce it. *Q.* That is exactly what I said; did you ever in your life speak of Mr. Seymour as your grandfather?—Most undoubtedly I did. *Q.* I beg your pardon, did Roger Charles Tichborne? Will you swear that he ever in his life spoke of Mr. Seymour as his grandfather, or wrote of him?—Yes, I will swear he did. *Q.* Did he ever address him as his grandfather?—No, I do not know that he did. *Q.* Will you swear that he ever did?—I do not think I ever did. *Q.* Then do you mean to say?—I mean to say this. **The SOLICITOR-GENERAL:** Attend to me——” **The LORD CHIEF JUSTICE:** Let him finish; it may be some explanation. **The WITNESS:** I do mean to say this, that in speaking of him personally I do not think I ever addressed him as my grandfather, but in speaking of him to other people I think I did. *Q.* Will you swear that?—I will swear it positively. *Q.* To whom?—Do you wish me to go back to whom?

Q. Give me one single member of the family to whom you will swear Roger Charles Tichborne ever spoke of Mr. Seymour as his grandfather?—It is taxing my memory beyond the capability of man.” Then a wrangle ensues on that point, and then the Solicitor-General says: “I ask you will you swear that Roger Charles Tichborne ever wrote of Mr. Seymour as his grandfather in his life?—I cannot answer that question. *Q.* Why do you not know in the Tichborne family the relationship of Lady Tichborne to Mr. Seymour was a thing carefully suppressed and not mentioned?—And you wish to expose it to the public court? *Q.* Who has exposed it, sir?—You are trying to do it. The SOLICITOR-GENERAL: Who has forced the relationship of Mr. Seymour and Lady Tichborne on the court but you? The WITNESS: God forbid, I would sooner drop dead this very moment than do it.” Then an unpleasant discussion ensues, and I must say that, looking through the evidence which I have just read, it is quite clear that it was the defendant who first introduced the question of Mr. Seymour being the grandfather to whom he intended to refer, and not the Solicitor-General. The Solicitor-General entered on the cross-examination on the supposition that the grandfather, who had been referred to, was the paternal grandfather, and that was the view in which Lady Tichborne herself had considered the matter. It never occurred to her that it was Mr. Seymour, the maternal grandfather, to whom the defendant referred; she assumed he must mean the other grandfather, and for the best of all reasons, that she knew perfectly well that, as regarded Mr. Seymour, the relationship of grandfather and grandson never had been acknowledged in the course of correspondence or conversation, or ever referred to in any way. We have the evidence of the Seymour family, and all agree in the most positive manner on that point. We have had besides, the correspondence of Roger Tichborne, in which Mr. Seymour is referred to again and again, and in which Mr. Seymour is never spoken of as the grandfather, but as Mr. Seymour, and what is the more striking thing is that in writing to his mother, he does not speak of Mr. Seymour as her father or as his grandfather, but as Mr. Seymour. I remember calling your attention to that in a letter of the 11th of November, 1849, when, writing from Knoyle, Mr. Seymour’s own house, to his mother, he speaks of him as “Mr. Seymour,” and speaks of the wife as “Mrs. Seymour,” without any reference or allusion whatever to the blood relationship.

A JUROR: Did not Mr. Seymour die in 1849?

The LORD CHIEF JUSTICE: Mr. Seymour died on the 27th of November, 1849. It was shortly after Roger Tichborne was at Knoyle for the last time. He never went to Knoyle again.

A JUROR: Is the message supposed to be sent to a person who was dead?

THE LORD CHIEF JUSTICE: Yes; I was going to point out that to you in a moment. I imagine that the Solicitor-General was induced to prolong the cross-examination, in order by the pressure of it to obtain from the defendant an admission that there had been not merely a reference to the grandfather, but a message directly addressed to him. In that case the thing would have been perfectly absurd, because Mr. Seymour died in November, 1849; therefore the message would have been addressed to a person whom Roger Tichborne must have known to be dead. But, irrespectively of this, the inquiry involves incidentally the question of the acknowledgment of the relationship, or of its being ignored. The defendant asserts positively on the cross-examination, that this was the state of things—that although he never addressed Mr. Seymour as his grandfather, nevertheless, in speaking or writing of him he would have spoken of him as his grandfather, and therefore in writing to his mother he might write of Mr. Seymour as his grandfather. The answer to that is that, in corresponding with his mother, Roger Tichborne does not speak of Mr. Seymour as his grandfather, but simply as Mr. Seymour. And, in like manner, the relationship of the uncles and aunts is wholly ignored. We have a series of letters from Roger Tichborne to Mr. Henry Danby Seymour, with whom he was in the habit of occasionally corresponding; there are no less than fourteen such letters in evidence. It is always, “My dear Henry,” and “Your affectionate Roger Tichborne,” without any mention of the words “uncle” or “nephew.” The uncles and the aunts, the Mr. Seymours, and Mrs. Bouverie, and Lady Rawlinson all agree as to this. The relationship was never referred to; the terms “uncle” and “nephew” were never used. The uncles and aunts were a much younger brood (if I may use the expression) of old Mr. Seymour than this daughter who had been born some years before at Paris. The consequence was that their ages, especially that of the sisters who were younger, approached so nearly to the age of Roger, that the use of the Christian name between them, which might otherwise have appeared unduly familiar as between uncle and nephew, and aunt and nephew, would not be striking.

A JUROR: There was only five years difference between Mr. Alfred Seymour and Roger Tichborne?

THE LORD CHIEF JUSTICE: Yes, and that made all the difference; they could consequently call one another by their Christian names, and always did so. Under these circumstances, independently of the fact of Mr. Seymour being long since dead, there could not have

been a message, and scarcely a reference to the grandfather, which would not involve an inconsistency into which it can hardly be supposed Roger Tichborne would have fallen.

Having returned from Paris, which he did before the end of the month of January, the defendant, who had now taken a house at No. 3, Sydenham Road, Croydon, begins a correspondence, much of which is of considerable importance, and there is a letter to which I must beg to call your careful attention. There is no date to it, but it must have been written immediately upon the return from Paris. It is to Mr. Rous, his friend at the 'Swan': "Dear Rous I only received your letter last night, has it was nine o'clock last night before we returned from paris. i have have been ill for several day in paris. and could not come before. i have seen all those anonymous paragrapts in the papers but have thought them below my notice. has i know the Public will soon be convince of the truth. You know i expected to find in Mr. Gosford a friend. But when i arrived in london from your house. i found that instead of people in Rios proving my death. it was no others than Gosford and slaughter who have sworn possitively that i was dead. and that i died on the 26 of April 1854. and by so doing have deprived my father and mother out of any of the doughty estate. and have been doing a very nice thing." I must ask you to observe this passage. He says they "swore positively that i was dead and that i died on the 26 April 1854 and by so doing have deprived my father and mother out of any of the doughty estate." More prodigious nonsense never was penned by man. The interest of his father in the Doughly estate was wholly independent of Roger Tichborne. The estate the father took in the Doughly property was fixed, and unalterably fixed, by the settlement of 1850, to which, as we know, Roger Tichborne was himself a party. Under that settlement Sir James Tichborne took an estate for life in remainder upon the decease of his brother, Sir Edward Doughly, and after Sir Edward Doughly's death he came into possession of the estate. While his life lasted the son could not touch a single stick or stone of the estate. He could do nothing but affect his own reversionary interest, of which, of course, he had the power of disposing. But as regards keeping his father and mother out of any of the Doughly estate, he had no more power to do it than a stranger who was walking in the street. He had no power of any sort or kind, present or future, which could affect the father's interest. How then could Roger Tichborne by any possibility have penned that passage? By his will he made certain dispositions of that estate, but, as I fully explained to you, the provisions of the will could only take effect after his father died. As regards the mother, she had an interest created in this

way. Miss Doughty's will gave each possessor who had a life estate, power, when he came into possession, to charge the estate to a certain extent in favour of his wife ; and when Sir James Tichborne, after Roger's departure, became, upon the death of his brother, the possessor of the life interest in the estate, he exercised that power in favour of his wife, and created two charges amounting in the whole to 2,000*l.* a year in favour of Lady Tichborne, as we had explained to us the other day from the deeds. No one could interfere with that. No proof of Roger's death, no execution of Roger's will could interfere with her interest, and no one could have known that better than Roger Tichborne ; and yet we have this extraordinary passage—"And by so doing have deprived my father and mother out of any of the doughty estate." Why, the mother was at that moment enjoying 2,000*l.* a year out of it ! It was by means of it that she was afterwards enabled to allow the defendant an income of 1,000*l.* a-year ! He goes on and says—"And have been doing a very nice thing. But i have been taking such proceedings against them and others, that some of them will be astonish by and bye. I shall be compeled to eject all the tenants at tichborne unles (with a single 's') they promise to pay their rents to me. Mamma will be here on sunday. She is going to stay here with me until this business is over. there is a great many people against me. they even employed a solicitor in Paris to watch my proceedings." Now, the only solicitor to whom that can possibly refer, so far as I know, is Mr. Bowker, and it is a most unfounded assertion as far as regards Mr. Bowker. He went to Paris, not to watch the defendant, but, at the instance of Lady Tichborne, as her established solicitor, to assist and befriend her, under the circumstances, and he did so at her own express desire. To say that he was watching him was untrne : indeed Mr. Bowker did not stay at Paris, for the moment he found Lady Tichborne did not want him, away he went, on the very day on which the defendant arrived. The letter goes on : "i believe Moore came up from scotland. but i did not see him. when he came home from Valparisao. he told mamma that i owed him fifty pound. and got paid. But i will have the pleasure of leting him know what i owed him yet my dear Rous. i have been very slow but very sure. hoping you are and your family quite well i remain yours faithfully R. C. D. Tichborne, Bart." The observation has been made on that, and I think not unfairly, that no baronet puts "Bart." after his name, any more than a peer when he signs his name, adds duke, marquis, earl, viscount, or baron, whatever may be his rank in the peerage. At the same time, that must not be pressed too strongly, because a man who has gone away before he succeeds to a title, and spent twelve years of his life in Australia, might not know the habits

of people in this country, and might put "Bart." after his name if he was entitled to that rank. But independently of that, the letter altogether is a remarkable one. There are twenty-four lines in it, and in those twenty-four lines there are no less than fifteen small "i's," five of them at the beginning of sentences, and only two large ones. It was said that no importance should be attached to these small "i's"—which in an Englishman would bear the character of total want of education, as no educated man ever uses a small "i" for the pronoun—because the French do use the small "i." But to this there are two answers. The French do not do it at the beginning of a sentence, they only do it in the middle of a sentence; but the more conclusive answer is, that Roger Tichborne never did it, though Roger had been educated in France. You may search the whole of Roger Tichborne's letters, and I think I may safely say there is not a single instance in which he has used the small "i" for the pronoun. Therefore, it is certainly a striking thing that the defendant uses the small "i" to this extent. In this letter of twenty-four lines there are fifteen small "i's," five of them at the beginning of sentences, and only two large ones in the whole of the letter. Besides this there are seven misspellings, four mistakes of grammar, and six small initials where they should be capitals, and all this in twenty-four lines.

After writing this letter on his return from Paris, the defendant went down again to Alresford, and there he became intimate with Mr. Baigent, a man of a good deal of intelligence and possessing great knowledge of the Tichborne family, and who was likely to be useful as an auxiliary and ally to the claimant, and who very soon became so. Now Baigent felt it was desirable that the defendant should not be open to the reproach of not having sought his relations, and we see from the letter I am going to read to you, that Baigent pressed him not to keep himself aloof from his relations, but to enter into communication with them, and it would occur to any one that that was the natural course of conduct which a person under such circumstances might have been expected to pursue. Indeed, it must have struck you as strange, when the defendant made up his mind to come forward as Roger Tichborne, and accordingly wrote to Lady Tichborne in the month of January, 1866, that, Roger having been quite as intimate with other persons in England as he was with his mother, perhaps more so—because we know he had no very great affection for his mother, and did not correspond with her to half the extent he corresponded with Lady Doughty—I think it must have struck you as singular that he did not, at the time he so came forward, and wrote to his mother, write at the same time to his aunt, Lady Doughty, and to his uncles, the Seymours, with whom he was in the habit of

corresponding, and to Mr. Gosford, his confidential friend. Because at that time there was no injunction as to secrecy on the part of Lady Tichborne. It may be that she did afterwards enjoin secrecy, and said do not communicate with anybody except me, but that did not exist at the time I am speaking of, and his silence towards these persons remains unexplained and cannot fail to excite surprise. Again, when he had been to Paris and had seen his mother, and so far complied with the injunction, it strikes one as odd that he should not have thrown off all concealment and said, Here I am, I now put myself into communication with my relations and friends; I challenge their attention to the fact of my being Roger Tichborne; I am ready to answer any questions; I am satisfied that having truth and justice on my side, I shall be able without difficulty to satisfy everybody that I am the man that I assert myself to be. But then the suggestion made in answer is, that those persons to whom he would otherwise naturally have resorted were persons who were leagued and combined against him, and from the outset of this inquiry an attempt has been made—an unjust and unwarrantable attempt—to represent all those persons as connected in a vast and wicked conspiracy to represent him (while they knew him to be the true man) as an impostor who was preferring a false claim.

Let us see for a moment what was the position of these parties against whom this accusation has been again and again preferred. The learned counsel for the defendant in plain terms spoke more than once of the collaterals of the Tichborne family as persons who were in possession of these estates, and were endeavouring to keep them as against the man they knew to be the lawful owner. I reminded him that that assumption was altogether untrue; that the only persons who were in possession were the trustees for the infant son of Sir Alfred Tichborne; that the other members of the family were not in possession, and that it was most unjust to represent them as waging war against the defendant for the maintenance of a possession which they knew to be unjust, when in fact they were no more in possession than any one of us. When I first made that observation, the learned counsel appeared to yield to it; he could not answer it, because the truth does not admit of contradiction; yet in his second speech he used the very same language, and resorted to the same misrepresentation—I use that term because it is an utter misrepresentation. There is no pretence for saying they are in possession, in any possible sense of the term. Still, though not in possession, they may have had an interest which may possibly have had the effect of inducing them to refuse to acknowledge the man whom they otherwise would have acknowledged, and whom they knew to be the right man. As regards the Seymour family, it is impossible to make

any such suggestion. They had no interest under the settlement ; they had no interest under Roger Tichborne's will ; they had no interest in the question whether the defendant was the right man or whether he was not. No possible state of circumstances that could arise would in any way affect their position or make them one jot the better for keeping the claimant out of the estates. Ah ! but, says the learned counsel for the defendant, there was nevertheless a sinister motive which no doubt was operating on their minds. Well I was surprised ; I confess it baffled my ingenuity to imagine what this could be. Roger Tichborne, says he, made a will disposing of his reversionary interest in the Doughty estates, and he omitted to put in any of the Seymours in the remainders. That was enough ; that disgusted them with Roger Tichborne and made them capable when Roger Tichborne came back (because that is the effect of it) of the inconceivable baseness of leaguings and bandings themselves against this man, although they knew him to be the right one. And that imputation is deliberately cast upon two gentlemen whose characters have stood unquestioned to the present hour, and upon two ladies like Mrs. Bouverie and Lady Rawlinson, women whose conduct and whose character is above all reproach. I can only say to you do not allow the defendant to be prejudiced by representations of this kind, which I believe arose out of the disposition of his own counsel to see everything in the blackest and darkest light, and to impute corrupt and wicked motives to everybody, including persons whose character ought to have protected them against such unworthy and unwarrantable imputations as those which have been thus made.

By a JUROR : It often occurred to me, my Lord, the abuse was measured by the importance of the witness.

The LORD CHIEF JUSTICE : There is some truth in that.

By a JUROR : That is the only reason for it.

The LORD CHIEF JUSTICE : There may be truth in that, and I am sorry I cannot stand between Dr. Kenealy and that observation, which seems to me a just one. I can only hope the example he has set to the Bar of England will not be followed as an example, but will be looked upon as a warning ; and, I am sure I shall have the assent of the whole body of the Bar of England to what I have just said.

But the Tichbornes do not stand exactly in the same position. The daughters of Sir Henry Tichborne may one day by possibility be benefited by the defendant not being Roger Tichborne. As the matter at present stands, if the defendant be not Roger Tichborne the estates would go to the infant son of Sir Alfred, that is of the gentleman who was allowed to bear the title of Sir Alfred until he

went to his grave; but supposing Sir Alfred's son should not grow up to manhood, and should not marry and leave issue, the estates would then go to Mr. James Dormer. I am not aware, and I do not know if any one present can tell us, whether Mr. James Dormer, who is in the remainder and who is the second son of the late and brother of the present Lord Dormer, has children or not?

MR. CHAPMAN BARBER: He has barred the entail and converted it into fee simple.

THE LORD CHIEF JUSTICE: Then what I was going to say would have no effect; I was going to say that by the settlement of 1844 the ultimate remainder was to the heirs of the settlor.

MR. CHAPMAN BARBER: It was, my Lord.

THE LORD CHIEF JUSTICE: In that case the five daughters of Sir Henry Tichborne, the ladies who have been called before us, would be co-heiresses and would take their share of the Tichborne estate.

MR. CHAPMAN BARBER: Sir Henry Tichborne by his will devised to Lady Dormer for life, with remainder to James Dormer, and they barred the entail.

THE LORD CHIEF JUSTICE: I cannot take blame to myself for not knowing that, because it has not been brought to our knowledge. In that case, gentlemen, they are in the same position as the Seymours, no better and no worse. By the will of Sir Henry Tichborne and by subsequent conveyances and deeds, the estate has been entirely changed. These ladies have no more interest in the matter than you or I.

Then from what motive are we to assume they have entered into a vile and detestable conspiracy, the purpose of which is to be carried out by wicked and deliberate perjury? On what ground are we to suppose they are capable of it—persons who are not the scum of the earth, who are not tainted with crime, with wickedness and fraud, but whose characters have stood without reproach or stain, or imputation upon their honour? There it is. You have been told, again and again, that these people are waging an unjustifiable and wicked warfare against the defendant, for the purpose of keeping him out of possession of estates which they are in possession of, and which they know he ought immediately to be allowed to recover. It is painful to think of these things—that accusations are thus scattered broadcast against people's characters, without waiting to consider or inquire whether there is any foundation for the imputations thus made.

If the learned counsel had taken the trouble to appeal to Mr. Chapman Barber, who knows the details of these estates, he would have found that to talk of the collaterals being in possession, and combining against the defendant to keep him out of the possession to which he is entitled in order to retain it themselves, was an accusation so frightfully unjust, that even he—who deals so largely in accusations—would, I should think, have scrupled to make such a one.

Well, Baigent—to come back to the point at which we had arrived—was anxious that the claimant should not be open to the reproach of not addressing himself to the relations and friends with whom Roger Tichborne had been intimate; and when he was at Alresford, there was one to whom that observation would apply with great force. In the neighbourhood there lived Colonel and Mrs. Greenwood—Mrs. Greenwood being one of the daughters of Sir Henry Tichborne, and, therefore, a first cousin of Roger. Colonel and Mrs. Greenwood, living at Brookwood, had always been most kind to Roger: he never came to Tichborne without going to Brookwood. He used to ride over to Brookwood, and go hunting with Colonel Greenwood and his brother Colonel George Greenwood, an officer who commanded the 2nd Life Guards for some time. Both being hunting-men, and partial to Roger as a boy, they took him out with them. Roger was most intimate with both of them, and with Mrs. Greenwood. It was, therefore, very strange that the defendant, if he was Roger, did not go to see them. Baigent tried to persuade him to go, but he would not go. Well, if he would not go, it was necessary to write; and thereupon, being at Alresford, on the 3rd of February, he wrote to Mrs. Greenwood a letter, which has now acquired notoriety as the “Cousing Kate” letter, and which is in these terms:—“My Dear Cousing”—cousin being written with a final “g”—“My Dear Cousing Kate I am very sorry i am not able to come and see you before i go. my head is so bad that i am not fit to come. Mr. Baigent is very much annoyed about it. but i am coming here to spend a fue day at the end of the week.”—“few,” as usual, being written f-u-e—“and i shall then have the pleasure of meeting you again. You will excuse me for not coming has it will only be a fue day before i am with you. I have an invitasion from Mr. Hopkins to spend a fue day with him so i shall be down about Thursday. Give my regard to Cousing William and G. I shall soon be down again and have the pleasure of a hunt with my old friend George. With my best regards my dear Cousin” (here it is written right), “to you and your family I remain your affectionate cousin R. C. Tichborne. I have to meet Mamma to morrow at Dover and our address will be Essex lodge thornton heath Croydon.” That is a letter of thirteen lines, and in it

there are six small "i's" to as many large ones, seven mis-spellings, and four mistakes of grammar, the word "cousing" written twice with a "g," and the word "few" written "fue" no less than three times. We cannot doubt, I think, that when Mrs. Greenwood and her husband Colonel Greenwood saw that letter, they shook their heads, and said, that never can be Roger. Gentlemen, Roger knew how to spell the word "cousin." It occurs in every one of his letters to Lady Doughty and is invariably spelt correctly. Do you think he could have forgotten that it was spelt without a "g" at the end? He never called Colonel Greenwood other than Colonel Greenwood, or Colonel George Greenwood other than Colonel George Greenwood, or Colonel Greenwood; he certainly never called him George. And Colonel Greenwood and Colonel George Greenwood being hunting-men, would be perfectly well aware that hunting-men do not talk of going to "have a hunt;" it is not an expression which a man who hunted with the Hampshire hounds would be likely to use. You talk of a day's hunting, but you do not talk of "having a hunt," at least in that class of life.

Now you have had put before you, as a means of making a comparison, and judging whether or not this was the letter of Roger Tichborne, a letter of the undoubted Roger Tichborne; and, as it happens, a letter to the same person to whom the letter of the defendant was addressed, namely, Mrs. Greenwood; and it is very fair and very reasonable that the two letters should be placed in juxtaposition, in order that one may be compared with the other. The letter is one of the last written by Roger Tichborne when in England, and certainly the last letter he ever wrote to Mrs. Greenwood.—"Upton House, Poole, Dorset. My dear Cousin, I shall not, I am sorry to say, be able to go and spend a day or two at Brookwood, as you had the kindness to invite me the last time I had the pleasure of seeing you. I shall be obliged to go to Paris at the beginning of next week, where I shall remain, in all probability, till about a week or ten days before I embark for South America. My time is in consequence so much taken up with one thing or other, that it will be, I regret to say, impossible for me to leave Upton this week. I should feel much obliged if, when you have a moment to spare, you favored me with a letter. Though I shall be far away, it will always give me much pleasure, during my wanderings in South America, to hear from you or Colonel Greenwood," (not "my friend George," or "George," or "Cousing William,") "I certainly will answer your letters (though you must excuse my bad handwriting), and give you an account, if you feel any interest in it, what kind of sport I get at the top of the Andes, and in the middle of the forest of South America. Pray remember me very kindly to Colonel Greenwood, and believe

me, my dear Cousin, your affectionate Cousin, R. C. Tichborne. 6 December, 1852." That is a letter (as compared with the defendant's) in which there is no mistake of any sort or kind. It is the letter of a gentleman, a man of refinement; who speaks of people who are much his seniors, and to whom he had been in the habit of looking up from his boyhood, with the respectful deference, as regards his designation of them, which a gentleman would naturally show. There are the two letters, and you can judge for yourselves, upon the comparison of the two, whether the man who wrote the one I read first can have been the same man who wrote the one I read last.

Then there comes another letter in rapid succession upon the one which I have just read, addressed, not to Mrs. Greenwood, but to Mr. Henry Danby Seymour. It may have been suggested to the defendant, or it may have suggested itself to his own mind, that being known to have been on such terms of affectionate intimacy with Mr. Henry Danby Seymour, the time had come when it was necessary he should put himself in communication with him. Accordingly he writes him this letter:—"Alresford, February 10th, 67.—My dear Uncle You will excuse me not communicating with you before. I have been so shamefully treated since. I have arrived in England that I did not whose where my friends. I am staying with my old friend Mr. Hopkins. for a few days"—He writes "friend" without an "e," like Arthur Orton—"And if you could come down I would so much like to see you. I am very glad to hear you are a member for Poole. I suppose you remember the time they wanted me to stand for it. Hoping, my dear Uncle to see you before long and renew that old friendship that once existed between us again I remain your affectionate nephew R. C. TICHBORNE. I expect mamma to arrive every day. Mamma is going with"—something is here omitted—"and my wife at Essex Lodge, Thornton Heath Croydon, near London."

The first thing that strikes one here is the use of the terms "uncle" and "nephew," the evidence of the Seymours being positive upon the point that the terms uncle and nephew never were used between Roger Tichborne and the Messrs. Seymour, and the letters of Roger Tichborne to Mr. Seymour going in the strongest way to confirm it; there being, as I told you, in no one of them any reference to the relationship. But the reference to the Poole election is also remarkable, that is to say, the statement that a deputation was addressed to him, wanting him to stand for Poole, which he afterwards explains to mean that a deputation came out to him when at Upton, for the purpose of inviting him to stand.

Now there were two elections for Poole in Roger Tichborne's time.

The first was in 1850, which was the first time Mr. Danby Seymour was returned for the borough. That Roger Tichborne was at that time in Ireland with his regiment is undoubted—first, from the date and the regimental papers, and secondly, from one of the letters I read to you, in which Lady Doughty writes to Roger, who was then at his quarters, telling him what had happened at the election and giving him an account of the chairing. It is quite clear Roger Tichborne was not at that election. The second election was in July, 1852, when, if you remember, Roger Tichborne, at the instance of Mr. Seymour, went over from Canterbury to see if he could render him any assistance. The visit of Roger Tichborne to Poole for that purpose appears to have proved perfectly useless. He had no success in turning a single vote. He writes to his aunt, Lady Doughty: “You must have been, I have no doubt, much amused when you heard of my going to the elections. H. Seymour wrote to me expressing a wish that I should be with him at the time of the elections, thinking, I have no doubt, that I might have some kind of influence in Poole. I started at once to find out what on earth had put into Henry’s head that I had influence in a place where I am not much more known than the man in the moon. As soon as I arrived I began my campaign by Mr. Woollett, whom I found very obstinate in refusing to give his vote. I talked about two hours on the subject, but to no purpose; I might just as well have sung ‘I’m afloat’ for what I got.” In the letter to Mr. Seymour written just after that time, he says: “I am very happy to learn by the note which you send me the morning of my departure from Poole that you had at last been elected; I was very sorry that my being so little known prevented me from doing more for you.” Mr. Seymour tells us he never heard a suggestion of such a thing as Roger being asked to stand for Poole; and that it could not have taken place at that election seems quite certain. There were already two liberal candidates in the field against two conservatives. The Upton House and Doughty politics were liberal; Mr. Danby Seymour was standing in the liberal interest, and to have asked Roger Tichborne to stand in the same interest, the only interest in which he could have stood with regard to the influence of Upton House, would have been to destroy the only hope of success, and frustrate the very purpose for which he had come to the place. It is impossible, I cannot but think, to suppose that he could have been asked at that election to come forward as a candidate, and equally so to suppose that Mr. Danby Seymour would not have heard something about it, if any of his friends and supporters had been irrational enough to ask this young man to stand. We know with how much jealousy every move which is taken at an election, and which may affect the chance of a candidate, is watched. Such a thing could

not have been done without its being known to Mr. Danby Seymour, who was at that time engaged in a very arduous struggle in which, however, he was successful in the end. The defendant, indeed, avoids this difficulty by a curious explanation. He says, it was not at the general election, but at some intermediate election that the thing happened; and it is but right that we should attend to what he states. In his cross-examination he is asked, "Did you yourself stand for Poole?—No, I do not think I did stand; I was requested by them to stand. Q. When was that?"—He does not answer the question directly, but he does in this way—"I declined on account of my intending to go abroad"—That brings us to 1852. That was the time Roger made up his mind to go abroad—"Q. When was it that you were invited to stand for Poole?—Some time previous to my going away. Q. Were you ever invited to stand for any other place?—I think not"—I should have thought he must have known—"Q. Then it would produce a certain flutter in your mind, the solicitation of a constituency; when was it you were solicited to stand for Poole?—It was when I was at Poole. Q. What year, 1852, just before you went abroad?—The latter part of 1852, or the beginning of 1853. Q. Who solicited you to stand for Poole?—You must not understand that it was a regular meeting, or anything of the kind; it was merely a paper sent to me signed by a great many of the inhabitants. Q. Just so, at the end of 1852 or the beginning of 1853?—Well really it was somewhere about that time; I may say the same has been done since my return to England also. Q. I mean before you went abroad?—Well, the first time. Q. Who was the first person who headed the movement in favour of your candidature?—I do not know who was at the head of it, but can find out if you wish to know. Q. Can you remember the name of the men who solicited you to stand for Poole?—No, I do not remember the name of any one of them. Q. Not one?—No, but I could find out the name for you easy, if you wish to have it." LORD CHIEF JUSTICE BOVILL: "Have you got the paper that was signed?—I could easy get it from Poole, easy get a copy of it"—We should have been interested to see it on this trial, but it has not been produced—"Q. Now I ask you, on your solemn oath, whether Roger Charles Tichborne did not go down to help Mr. Henry Danby Seymour at the election of April, 1852"—that is wrong as to April, it was July—"and whether there is one syllable of truth in your being asked to stand in the autumn of 1852?—Yes, I say there is, and I maintain now what I say is true: You are speaking of six months previous to what I am; I know he was member. Q. I know he was. At the time I am speaking of Mr. Henry Danby Seymour was member for Poole when you had the requisition?—Yes."—So that you see he puts it at an election which

took place after Mr. Seymour was member for Poole—" Q. Then you were to go down and oppose your uncle, or what?—No, that is what I say—my firm belief. Q. An extra member?—Yes. Q. There was a general election, was not there, at the end of 1852? Christmas, or when was it you were solicited to stand? I believe there was a change of government at the end of 1852-53. The general election was before that. When was it you were solicited?—I really do not remember the days. Q. At all events a deputation attended you when you were at Upton?—Yes, I think so. Q. You received them, I suppose, in one of the rooms there?—Just so. Q. You made them a reply, I dare say?—I declined, certainly. Q. Did you make them a reply by word of mouth or a written reply?—I think that it was by word of mouth. Q. Cannot you tell me when this was—the little canvassing you did: Was it at the time of the general election?—A chance vacancy at Poole. Q. How came they to want you to stand for Poole?—How can I be answerable for what they wanted? How can I inform you if they wanted it? Q. I do not ask you as to your personal qualifications; what I want is as far as you recollect?—I think it must have been at the latter end of 1852. Q. Do you remember how the vacancy happened to arise at Poole, which you were solicited to fill—how there came to be an election at Poole?—No, I cannot say that I do; something strikes me—flashes across my mind—that it was just at the time an extra member was appointed for Poole—two members instead of one; I am not certain I can speak with correctness. Q. You cannot speak with certainty?—No. Q. As far as you recollect there was an extra member appointed for Poole, and that led to an election?—I do not say that such was the fact. Q. It flashes across your mind?—Yes, it does. Q. Have you any other more definite recollection than that you think an extra member was appointed for Poole, and you were asked to fill the place, do you remember?—No; I did not bother my head much with it. Q. But do you remember when the extra member was appointed for Poole?—No, I do not. Q. But you remember the fact being so, do you?—It is just as I told you just now; as I spoke there was something of that kind came across my mind; it is impossible for me. Q. But cannot you tell me whether you recollect it as a fact, that there was an extra member appointed for Poole?—No, I cannot. Q. About that time?—No, I cannot. Q. Cannot you tell me more definitely how you came to be asked then how the vacancy arose? I do not want to know how they applied to you, but how the vacancy arose at all?—No, I think not. Q. But of the fact you are certain?—What fact? Q. Of the fact that you were applied to?—Oh, yes. Q. And was the requisition what they called numerous and influentially signed?—I really forget how many it was signed by. Q. But about

10, 20, 30, 40, or 50?—No, you had me before, and you are not going to do it again. *Q.* Eh?—I do not remember. *Q.* Can you tell me within 10 or 100, cannot you?—Well, of course it stands to reason I could do it. *Q.* What?—Of course I can do it. *Q.* How many about?—I tell you I cannot at this instant of time tell you how many signed, but certainly many more than 10. *Q.* Was there as many as 100?—Now there you are again, you want to get to 100.”

It is plain that this explanation is untenable; there never was an extra member for Poole. Poole had from an early time two members. The only change in the constituency was made by the Reform Bill of 1867, when Poole was deprived of one member, and the two were reduced to one. No extra member was ever given to Poole. And what makes the thing impossible is, there never were while Roger Tichborne was in England, after he had grown to man's estate, but two elections at Poole. We have had Mr. Danby Seymour and his statement on the subject. He sat for Poole for many years. He stood at the election of this present year, when he had not the good fortune to be returned. The first election for Poole after Roger Tichborne came from France was in 1850, when he was in Ireland, and therefore he could not be applied to for the purpose; and the other election was in 1852, when Roger Tichborne went down to assist Mr. Seymour, and when, as I have said, it is absurd to suppose he would be invited by a deputation to stand, as he would have had to stand to the detriment of his uncle's chance of success in the election, and the Liberal party never would have suggested to him to take so absurd a course as that.

But a witness was called who told us he remembered some persons in the borough setting out to see Roger Tichborne; and the witness said, as I understood, that the expedition to see Roger was to induce him to stand as a candidate. The witness who told us that was a person who, being an assistant in a grocer's shop, told us that he took a very active part in the election. What I dare say may have happened was this: I dare say they had heard that Roger Tichborne had come down to Upton, and it was perfectly well known at Poole that Roger Tichborne would be the future proprietor of Upton; and that being the future proprietor of Upton, he might have a certain amount of patronage and custom to distribute in the borough, and therefore it may have been thought that his solicitation of some of the voters, whose votes might be thought doubtful, might have an advantageous effect as regards the Liberal interest, and therefore very possibly some of them did go out and say to Roger Tichborne, “Be so good as to come in and help us, we want you particularly, we want you to speak to a voter who seems very obdurate and obstinate.” They may have said, “We want you to talk to Mr. Woollett;

will you go to Mr. Woollett, you might have some influence with him?" Roger Tichborne says: "I came and tried my hand on Mr. Woollett. I talked to him for two hours, and I might as well have sung, 'I'm afloat' to him; it did not produce the slightest effect." That, I think, makes clear what otherwise it would be difficult to solve, because one hardly supposes a witness would come and tell you that which had not some foundation in fact. I dare say somebody did go out and speak to Roger Tichborne, and I dare say that got talked about. Carter was constantly with him, and if he had gone down with him as his servant to Poole, he would be likely to know. He, or somebody else may have mentioned Roger Tichborne's going to Poole and persons coming out to him with amessage or deputation at the election. And the election for Poole having been talked about, somebody having made mention of it, the defendant put it into the letter to Mr. Henry Danby Seymour. The difficulty of reconciling his having been asked to stand, with the fact of his having gone down to the general election of 1852 for the purpose of assisting Mr. Danby Seymour, having been made apparent, it occurs to the defendant to say, "It was when there was an extra member." That fails, because there was no extra member at all, and there were only those two elections that I have been referring to.

This brings us to the meeting at Alresford with Mr. Henry Danby Seymour, at which certain things occurred which it will be important to recall to your recollection; but our work is over for to-day, and we will begin with that to-morrow.

ONE HUNDRED AND SEVENTY-EIGHTH DAY.

Thursday, February 12, 1874.

THE LORD CHIEF JUSTICE: Gentlemen of the Jury, I finished yesterday the observations I had to make to you on the subject of the letter addressed by the defendant to Mr. Danby Seymour upon his return from France. The effect of that letter was that Mr. Seymour made up his mind to go down to Alresford to see the defendant, who was then staying there with Mr. Hopkins. On his first visit to Alresford the defendant did not put himself into communication with Mr. Hopkins, but preparatory to his going down a second time, on his return from Paris, he wrote a letter to that gentleman, a passage in which has been much relied upon by the defendant's counsel. There is no date to the letter, but it has a post-mark of the 1st of February, 1867:—"You will no doubt think it strange that I did

not call on you when at Alresford. I should have done so with pleasure had I not been under a promise to Mamma not to converse with anybody i knew until I had seen her. i now know her reasons and am very glad i kepted my promise. i suppose you have heard how i have been served by Gosford and others. since i have been away. i should not have gone to Alresford only i thought nobody would know me as i had grown so stout. so i thought i would have a quite look round.”—that is the defendant’s way of writing quiet—“i know you and Dr. lipscombe”—the surname of “Lipscombe” being written with a small “l”—“are old frinds so praps”—that is one of the characteristics of the defendant’s writing, that he spells “perhaps” “praps,” it occurs in several instances—“praps you will kindly tell him the reason i did not call on him likewise. if Mamma does not send for me to meet her most likely i will come down with Mr. Holmes to morrow. hoping my dear Hopkins the old friendship that once existed between us may again be renewed. and that I may have the pleasure of again receiving your advice how to act.” Upon that I cannot help pausing for a moment to say, when the defendant uses the language, “I hope I shall have the pleasure of again receiving your advice how to act,” that when we look at Roger’s letters we find not only that he never resorted to Mr Hopkins for advice, but when Mr. Hopkins on one occasion told him he was acting as his adviser he makes the observation that “it was the first time he was aware Mr. Hopkins was his adviser;” and in a letter of Lady Doughty to Roger, which I have already adverted to, she speaks, as an amusing circumstance, of the fact of his having ridden in the same carriage with Mr. Dunn, she “knowing his fondness for that firm”—of course, speaking ironically—she meant his dislike of the persons of whom it consisted; therefore when the defendant says he hopes he may have the pleasure of again receiving Mr. Hopkins’s advice, I can hardly find in that anything that reminds me of Roger. Then comes this passage, “I suppose you remember having heard of a Miss Bellow”—that is the way he writes Bellew—“in ireland”—written with a small “i.” Then comes a word which it is exceedingly difficult to decipher; but the letters appear to be “memo”—and he may have meant a memorandum, in the sense of reminder—“memo only. hoping to have the pleasure of meeting you before long I remain yours Faithfully R. C. D. Tichborne.” There are sixteen printed lines in that letter, and there are sixteen small “i’s” to two large ones. Now this is supposed to have been a sort of proof to Mr. Hopkins that he was the real Roger, that he reminds him of his having heard of a Miss Bellew in Ireland. The learned counsel for the defendant says there must have been something which happened in Ireland in connection with Miss Bellew and Roger Tichborne of which Mr. Hopkins was cognizant. The first question one

would desire to have solved is what it was that occurred with Miss Bellew in Ireland? Lord Bellew was called into the witness-box and was asked whether anything had ever passed between Roger Tichborne, during the time he was in Ireland, and either of his sisters, and he knew nothing at all of anything of the sort; nor is there a trace of it in Roger's letters; all he says is that on one or two occasions, certainly two at the outside, he went over from Dublin to Barmeth to pay a visit of a day—at all events, not more than two days—to Lord and Lady Bellew, and on one of those occasions met the present Lord Bellew. There is no mention whatever of the daughters, and the brother knows nothing about any real circumstance which can have been here referred to. Then he is asked whether his father and mother and he and his sister did not go over to Paris on a certain occasion, and whether there they did not see Mr. and Mrs. James Tichborne. It was suggested that that had some reference to some proposal or some arrangement with reference to some future union between Roger and Miss Bellew. Lord Bellew laughed at the notion, and said nothing of the sort had ever been heard of. He himself was about to be married, and they went over to Paris to get a number of things for his bride, and never dreamt of any attention from Roger to Miss Bellew or had any notion of its ending in a marriage. However the learned counsel would have it that there was some deep mystery beneath this which Lord Bellew would not reveal to us, but what it was, under what circumstances it occurred, what form it assumed, he had not the means of informing us. But he seems to have forgotten, what of course we could not forget when he left things in this sort of mystery and ambiguity, that there was the man present who, if he is Roger Tichborne and had any relations of any sort or kind with Miss Bellew, could have told him in a moment what it was, so that it could be put to Lord Bellew in a tangible and specific form, in which Lord Bellew could have dealt with it as a witness in giving his evidence. Unfortunately no question was put to the defendant on his cross-examination as to what was meant by this reference to Miss Bellew, in Ireland; but the learned counsel might have got it from his client. But instead of asking his own client, and putting it before us and the witness as a fact, he leaves it in this sort of way—"I cannot tell you exactly what it was, and Lord Bellew will not tell me, therefore I do not know." Why on earth did not he apply to the right source? I mean to the defendant. It does not appear that Mr. Hopkins ever made any further reference to the subject, or that any explanation ever took place between him and the defendant about it.

On the receipt of this letter Mr. Hopkins appears to have taken up the defendant's cause, possibly somewhat influenced by Rous, who at this time had become the ally of the defendant, and who was

not deterred from taking his part and doing what he could to assist him by the extraordinary passage I read in that letter yesterday about Mr. Gosford proving his will. Rous, who must have known quite well that that was perfect nonsense, nevertheless remained closely attached to him until a very much later period, and probably did something towards influencing Mr. Hopkins's judgment in adopting the defendant. We do not know to the present day, because Mr. Hopkins is dead and cannot tell us, what were the circumstances that induced him to take up the cause of the defendant with the warmth with which he certainly did take it up. We do not know whether it was that he believed in the identity of the defendant—I mean as regards personal appearance. If he believed in his identity, judging from personal appearance, it has not appeared that he ever said so. If not, I suppose, he must have taken a favourable view of the case from the knowledge which the defendant manifested with reference to the circumstances of the family, and, above all, the circumstances connected with the property. Now we know that the defendant and Mr. Holmes went to Doctors' Commons and saw Roger Tichborne's will; that we do know; and I cannot very much doubt that Mr. Holmes, knowing very well what he was about, took care to have a copy of that will, which he could get at once by paying for it. Mr. Rous, with whom the defendant was in close association, knew every particular connected with the settlements; and I dare say at that time the defendant knew more or less about the affairs of the family with respect to the property, and knew more or less about Roger's will; and if he could show any knowledge of those circumstances to Mr. Hopkins, they would be calculated to make a very deep impression on that gentleman. If the defendant exhibited to Mr. Hopkins the lamentable, utter, and absolute want of knowledge which you will see by-and-by he exhibited at the time of his examination on the trial, then if Mr. Hopkins adopted him as Roger, you will have to judge whether Mr. Hopkins's opinion is worth anything at all; for certainly at the trial the defendant did make the most terrible hash of the affair that can possibly be conceived. It may be, of course, that he as Roger had forgotten all about it; but it may also be that, having learned the lesson in 1867, and so made Mr. Hopkins believe he was Roger, because he knew about the estates and the pecuniary affairs of the family, he may, having learned the lesson, in the meantime have forgotten it. We do not know the circumstances under which Mr. Hopkins accepted him; but this is quite certain, and he is entitled to the benefit of the fact, that Mr. Hopkins, who was competent to form a judgment about the matter, undoubtedly did form a judgment favourable to him, and took up his cause not only with zeal but with a vehemence that seems to have struck everybody, and which on more than one occasion manifested

itself in something which was rather beyond the ordinary course a legal adviser would pursue or decorum would strictly allow.

By the JURY: What was the date of Mr. Hopkins's death?

Mr. HAWKINS: He died in October, 1868, I think, my Lord.

On the 12th of February the defendant writes to Lady Tichborne as follows:—"I received this morning the letter you sent to Mr. Holmes. And I am very sorry to hear the Sea is so rough, has I know you cannot be comfortable where you are. I am staying a few days with Mr. Hopkins, who has been very kind to me, has also Mr. Baigent, my dear Mamma it no use for any of them to deny me now, has I have seen so many that know me. Mr. Stubbs and Mr. Huggins called on me yestrday"—written with the omission of the e in the middle—"and remembered me well, has also Col. Lushington. Of cause he did not know me before, but he was so convinced by some questions he ask me, that they rung the Tichborne bells yestrdays"—written as before—"in honor of my arrival. I forgot to menshion that himself and Mrs. Lushington lunches with us to day. I have wrote to Uncle seymore"—spelt m-o-r-e—"as also Mr. Hopkins, but we have not received an answer yet, but praps he will come here to day. I should have wrote before my dear Mamma but I have expected you in England every day. I shall leave here to morrow night for Croydon so has to come and meet you. Gosford came here on last saturday, he did not know I was here, he says he came to see Mr. Hopkins, but Mr. H. would not see him, because he wrote such a lot of falsehoods to him about me. Gosford is quite willing to believe i am myself, now, has he has told a great many people about here that he must have been mistaken, he pretinds to be very angry with Cullington for writing what he did to my friend hopkins and say he did not ortherise him to do so"—the spelling of the word "authorize" is not unworthy of attention—"He came here on account of some very severe letters Mr. Hopkins wrote to Cullington about his conduct to me, but Mr. Hopkins rufuse to see him on account of his Blackard conduct to me. He left he to go home again but come to Tichborne chaple from Winchester on sunday, thinking he would see me, but i did not go. Cousin Katty would very much like to see me but Col. W."—Colonel William, of course—"will not let her come; he is afraid she will be called on has a witness. It does not matter has I have a hundred witness here if I want them. I hope my dear Mamma you are better in health than you where. I shall come and meet you as soon as I get back, if you have not arrived. I have a great many things to tell you when I see you. Dr. Conor has just be in to see me again he is very kind, and in fact so are all the people about there. Hoping my dear Mamma I am to be with you and enjoy many happy days'

in your company. I remain my dear Mamma your affectionate Son Roger C. Tichborne. the name of the house at Croydon is Essex Lodge thornorton heath." In this letter of thirty-five lines, there are seventeen mis-spellings, the word "as" being written "has" no less than six times, besides six mistakes of grammar.

It was at Mr. Hopkins's, who had thus taken up the defendant's case and received him as Sir Roger, that the meeting to which I am about to call attention took place. Mr. Henry Danby Seymour went down accompanied by William Burdon, the man who had been in the service of Sir James Tichborne, and who very frequently had attended on Roger. Mr. Seymour says that on his arriving at Alresford, which was, I think, on the 12th of February, or very shortly after that letter of the 10th, he went to the 'Swan,' and found that the defendant was out, and while looking out of the window of the hotel he saw Mr. Hopkins, who recognized him. There was a gentleman with him, he says, who proved to be the defendant, and as soon as they turned the corner of the street opposite the 'Swan' he went out and walked up to them. He says: "I did not recognize the gentleman with Mr. Hopkins;" and Mr. Hopkins said, "This is Sir Roger Tichborne, Mr. Seymour; let me introduce you." If Mr. Seymour is correct in this, it was certainly a strange proceeding on the part of Mr. Hopkins, and one can hardly think it was altogether a loyal one; because if the defendant who was then with Mr. Hopkins was Roger Tichborne, of course he would know Mr. Danby Seymour as well as he would know anybody. Therefore he should have left it as a sort of test whether the defendant recognized Mr. Seymour; instead of which Mr. Hopkins thinks it necessary to mention at once to the defendant, "This is Mr. Seymour." It struck Mr. Seymour, but he said nothing further about it at the time, and they went into the house. Then he says, "I said to the defendant, If you are Roger you will know this gentleman," referring to Burdon. The defendant, says Mr. Seymour, looked at Burdon, and after a short time said, "My uncle Nangle." If that is what he said he could not have made a more unfortunate shot, because Mr. Nangle, the uncle by marriage of Roger, was at that time about seventy years of age, whereas Burdon was a man who did not exceed thirty or forty, and would not therefore have the appearance of a man of seventy. But the defendant has explained it in this way. He says, "I did not say my uncle Nangle, but I said one of the Nangles;" and I must say that it strikes me as the more probable thing, by reason of the difference of age between Burdon, who appeared here before us, and whose appearance we could judge of for ourselves, and Mr. Nangle, whose age was some thirty years at least more than Burdon's. However Burdon says the same thing, namely, that upon

Mr. Seymour asking who he was, the defendant said "My uncle Nangle." But let us take the defendant's view. He may have said "one of the Nangles." I do not suppose anybody would imagine that Mr. Seymour or Burdon would tell us a falsehood about it, but there may have been some mistake, and the defendant may have said "One of the Nangles," and they thought he said "Uncle," or he may have said, "One of the sons of my uncle Nangle," and they caught the word "uncle," and so the defendant's version may be the right one. But there still remains the fact that, whereas Roger knew his cousins, the young Nangles, from the time when they were playmates with him in Paris, and must have known William Burdon, who was in the service of his father several years, and who attended him the last night he was in Paris, when his throat was so bad, the defendant not only did not know this man Burdon, but mistook him—a double mistake—for one of the cousins whom Roger had known all his life. However they went into the house with Mr. Hopkins, and Mr. Seymour tells us that he made up his mind to ask him one or two questions, and the first thing he says he did was to address him in French. The defendant's answer was that he could not speak French; he had forgotten it. Mr. Seymour was surprised at that, because he says he generally talked in French to Roger. He tells us that a conversation then commenced about what occurred after the loss of the 'Bella.' "I asked, one of the first things, about the 'Bella,' how he was saved from the shipwreck.—And what reply did you get to that?—He said he was saved by a ship called the 'Osprey,' and the captain was either Lewis Owen or Owen Lewis; that there were seven or eight sailors who were saved with him. I asked him if he ever heard of them, and he said, 'No, he did not know their names.'" Now that is striking, because we know that, not long after this, Mr. Hopkins was applied to by Mr. Killey, one of the owners of the 'Bella,' about a young man of the name of Evans, and Mr. Hopkins, from a statement of the defendant, sent the surnames of four men as belonging to the crew, who had been saved. But the defendant told Mr. Seymour he did not know their names, and gave as a reason that sailors generally went by nicknames. He then stated that he went on to Melbourne, went up the country in charge of horses, and said the reason for coming back to England was that "he had been bankrupt, and that he had declared himself for the sake of his family." The witness goes on, "I asked him why he did not come to see my sisters; that the real Roger Tichborne had been always very intimate with them, and that I wondered why he had not come, and that they would be very happy to receive him. But to that I did not get any distinct answer."

In the course of that interview, a circumstance happened which seems to me to be the most important part of it. Burdon, sitting at

the table, produced an envelope; he reached across the table, being on the opposite side to the defendant, and said, "Do you know this handwriting?" Mr. Seymour and Burdon say that the defendant looked at it for some time, and said he did not know it. On which Mr. Hopkins looked at the envelope and said, "Good God, Sir, that is your own father's handwriting." Mr. Seymour and Burdon both swore positively that this passed. It was an envelope addressed to Burdon himself, which Sir James in his life-time had written to him, and was in the undoubted handwriting of Sir James. If that passed, it is a striking thing that a man should not know the handwriting of his own father, which he must have seen scores of times; the father with whom he had himself been in correspondence down to the time not only of leaving this country, but of his going on board the 'Bella.'

Mr. Seymour put another question to him which he thought a very sufficient test of his identity. You remember, no doubt, that amongst the most intimate friends of the father and mother was the old General de Mondreville, who had always taken great notice of young Roger, had always been kind to him as a boy, and made him presents, among other things, of a breast-pin, which Roger wrote for from Stonyhurst, and which in all probability he got the first time he went to Paris, if it was not sent over to him before, and which, from the circumstance of its being worn by him, would to the last perpetuate the remembrance of the giver. Mr. Seymour asked him if he remembered M. de Mandreville; his answer to that was he did not. Then, says Mr. Seymour, "I asked him about coming to see my sisters. I did not get a satisfactory answer, and I made up my mind that he was not Roger; and I said so. I could not in any way recognize him, and told him so, and told Mr. Hopkins so. I said I was prepared at any time to see him at Upper Grosvenor Street. I invited him to come and see my sisters, and said they were willing to look at the question fairly and recognize him if they could, and that they invited him through me to call upon them." Mr. Seymour says that at the close of the meeting the defendant said he would come the next day to Upper Grosvenor Street, and he made arrangements for his sisters to meet him there; and he wrote to the Greenwoods to come up for the same purpose. We know Colonel Greenwood did come up. Mrs. Greenwood was ready to come if a final meeting should be appointed, though she did not come up that time.

One other incident occurred at this meeting with Mr. Seymour which I have omitted. According to Mr. Seymour, the defendant brought out a helmet which had been Roger's, which had been left behind at Tichborne, and which Colonel Lushington, the then occupier, had sent across to Mr. Hopkins as belonging to Roger.

Mr. Seymour says the helmet was tried on the head of the defendant. He says it did not fit him as a helmet would be expected to fit a person for whom it was made. He says, "The defendant went to the side of the room and brought out a helmet, which he said was his helmet when he was in the Carabineers, and he tried it on his head, and it seemed to me too small for him. He could barely get it on. He said that Colonel Lushington had sent it to him out of Tichborne House." Lastly, Mr. Seymour says, and it is necessary to call your attention to this part of the evidence with a view to what the defendant has said to the contrary, "I expressed my impression, as strongly as I could, as politely as I could, but very decidedly, that he was not Roger, and that I could not in the least recognize him. Q. Then there was nothing in what you said which would lead any one to suppose that you recognized him?—Certainly not: I did not wish to be uncivil, but I spoke very decidedly. Q. That is to say politely, but decidedly?—I suppose politely, but very decidedly. Q. Did you ever at all in the least degree alter your opinion upon the subject?—Never in the least. Q. Or intimate that you had?—Never in the least: I meant throughout to assure them that I did not recognize him, although I was perfectly willing that he should come again." Then I asked him this, "Still you may have so expressed yourself as possibly to leave that matter in doubt, or lead to a different conclusion about it in their minds?—I do not think so, my Lord." Then Mr. Hawkins asks, "Was there anything in your manner or language which would lead anybody to suppose that?—The WITNESS: Most decidedly I should say no."

The evidence of Burdon goes strongly to confirm what had previously been stated by Mr. Seymour. Burdon, as we know, was several years in the service of Mr. Tichborne. He was brought up on the Upton estate, in the neighbourhood of Upton House, and, when a boy, was taken by the hand by Sir Edward Doughty, who was very kind to him, and put him to school, and when fit for service he was taken into the service of Sir James Tichborne as early as 1845, and remained in it till Sir James came to England. He knew Roger, therefore, perfectly well. He says: "When we met, Mr. Seymour touched Mr. Hopkins on the shoulder and said, 'Good morning, Mr. Hopkins;' Mr. Hopkins said, 'Good morning, Mr. Seymour, how are you?' He immediately said, 'Sir Roger Charles Tichborne—Mr. Seymour;' then that man's face turned as red as the sun, comparatively speaking. He held his hand out, and Mr. Seymour said, 'I cannot recognize you as Sir Roger Charles Tichborne.' Then, turning to me, Mr. Seymour said, 'Do you know this gentleman?' The defendant made answer and said, 'I do not know him. I think it is my uncle Nangle.'" He bears out the statement of Mr. Danby Seymour in that respect. Then he

speaks of questions that were put, in the same way as Mr. Seymour does. The first was about the ship. He says, "Mr. Seymour asked him several questions about the shipwreck, and he said he had been lost in the 'Bella,' and picked up in a ship called the 'Osprey,' to the best of his recollection, and taken on to Melbourne, and that he got a berth as stock-rider in Gippsland, and knocked about in one part and the other." Mr. Seymour, he says, spoke to him in French; and he remembers Mr. Seymour said, "Est ce que vous parlez Français." The answer was an evasive one to the question put to him. He did not understand French." Now, as to that, you know, if you picked up a man in the street and said, "Est ce que vous parlez Français," he would know what you asked; it is one of those phrases everybody knows. Then "He asked how it was, if he was Roger Charles Tichborne, that he had been knocking about so many years, and never communicated with his friends or relatives? If he was Roger Charles Tichborne, he should have thought the first thing he would have done on his arrival in this country would have been to call on him, or his brother, or some of his relatives. Q. Do you remember whether the defendant said anything to that?—Stop a moment: To the best of my recollection, his answer was, that his legal advisers had advised him not to communicate with any one. Subsequently he said: 'I decline to speak unless my legal adviser is here.' He spoke with a foreign accent at that time. Q. What do you mean by that?—The same that a Frenchman would that had learnt English after sixteen or seventeen years. Q. The defendant did?—That gentleman there. Q. How had he spoken before that?—He spoke like a Frenchman who had been sixteen or seventeen years in France, and came to this country and learnt English. 'I do not know dis,' and, 'I do not know dat,' and that kind of style. Q. At this interview?—Yes. Mr. JUSTICE MELLOR: Did he use any French words?—I never heard one. Q. It was a French manner, was it?—It was French jargon. Mr. SERJT. PARRY: French accent?—Yes, French accent. Q. You did not hear a single word of French?—I never heard a word of French pass." Then he makes the same statement about his producing the envelope, and about the defendant not knowing whose handwriting it was, and the exclamation of surprise and astonishment which Mr. Hopkins made. He also says that Mr. Hopkins had treated him somewhat abruptly—and at first ordered him out of the room; but Mr. Seymour, as he was going to leave, insisted on his remaining, saying he would not stop in the room without a witness, and called him back again. Then he said a thing which is certainly a little startling, and perhaps may not meet with ready belief: he says that as they were going away, Mr. Hopkins manifested a good deal of anxiety, and said to him, "For God's sake do not mention anything of this painful affair, for my honour is

at stake." It certainly strikes one as a little strange, however strongly Mr. Hopkins may have felt, that he should have thought it necessary to make an observation of that sort, to beg Burdon to make no mention of what had passed. I confess that it strikes me as something not altogether credible.

Let us now see what is said by the defendant about this interview. He begins by saying it was not Mr. Hopkins who first saw Mr. Seymour. He said, "It was I who saw Mr. Seymour, not Mr. Hopkins." Then he is asked: "Did Mr. Seymour say to you, 'If you are Roger Tichborne, you will remember this man who is with me?'—No, not exactly that; he said, 'Who is this person here?' Q. I put it to you, he said: 'If you are Roger Tichborne, you will remember who this man is with me?'—Yes; but he did not happen to say that. Q. Did you look at him and say, 'Why that is my uncle Nangle?'—I said he looked very much like one of the Nangles. Q. You said he looked very much like one of the Nangles?—Yes. Q. What I put to you is, whether you did not say to Henry Seymour, 'That is my uncle Nangle?'—No; I did not. Q. What you say is, you said that 'He looks very much like one of the Nangles?'—Yes; that is what I said." Then he is asked: "I think you told me that this man who was like one of the Nangles was a youngish man, between thirty and forty?—Yes. Q. And Mr. Nangle is about 70, is not he?—The sons are not. Q. Your uncle—Roger Tichborne's uncle—is about 70?—I should think he would be all that. Q. Did Mr. Hopkins say, 'No, no'?—I wish you to understand I never said my uncle Nangle; I said he looked like one of the Nangles; I wish you also to understand that there are two or three of the Nangles who are young men. Q. No doubt the sons would be younger than the father?—They usually are. Q. Did Mr. Hopkins say, 'No, Sir Roger, that is William Burdon?'—No. Q. He did not?—No; perhaps you will allow me to tell you what did pass. Q. Yes, you may say what passed?—He came in with Mr. Henry Seymour, and Mr. Hopkins said, 'Who is this?' Q. Who do you say he came in with?—With Henry Seymour. Q. Burdon came in with Mr. Seymour, and Mr. Hopkins said, 'who is this?'—Mr. Seymour then said, 'It is one of Sir James's old servants.' I said, 'It is Burdon.'"—There is a little improbability on the face of that, because Mr. Hopkins must have known Burdon, for he had been with his master at Mr. Hopkins's house.—"Q. And then you said, it is Burdon?—Although I had seen Burdon a few days previous to that, and recognised him and picked him out of a room full of people, I did not know him again then."—Whether the defendant had seen Burdon and picked him out of a room full of people I do not know; we have only his own statement, and, strange to say, Burdon was not asked that question. "Q. You did not know him

again then?—I did not know him again then, and there was only a few days elapsed. *Q.* Do you mean your memory for faces is not good?—He looked so different a person. Mr. Seymour had got him toggged up so smart; he came down in a first-class carriage with Mr. Seymour.” Then he is asked: “Did you see him in a first-class carriage with Mr. Seymour?—No, my Lord; but I ascertained afterwards that it was the fact. *Q.* His coming in a first-class carriage can have no bearing if you did not see him?—I was merely speaking of the way he was dressed.” Then there is a great deal of cross-examination about whether Burdon was allowed to come into the room where they were, or whether there was any discussion about it. I really do not think that is of much importance. Then he is asked about Mr. Seymour having addressed him in French. “Did you say you could not speak or understand a word of French?—No, I did not; I answered him in English; it so happened that I did understand what he said; I really do not remember what it was; there was only three words spoken in French; I told him I could not speak French. **THE LORD CHIEF JUSTICE:** Are you able to talk French at all?—No, my Lord: at times I can make use of a few words, but it is entirely gone.” Then the Solicitor-General asks: “Did Mr. Henry Seymour ask you to give an account of your escape from shipwreck?—He did not. *Q.* Did you give it to him without being asked?—I did not. *Q.* You did not give it to him at all?—No. *Q.* Did you tell him that there were seven or eight men saved with you?—I never spoke of the shipwreck at all. I was only in the room, I should think, altogether about five minutes: Mr. Seymour would not remain without he had Burdon in with him, and Mr. Hopkins said that being the case, it was as well that I should go into the garden and smoke a cigar while he had a talk with him. I did so, and when I returned he was gone. *Q.* Mr. Seymour’s account does not seem to agree with yours, so I must put it to you—**LORD CHIEF JUSTICE BOVILL:** As to the shipwreck, you have already called his attention to it, and he said he never spoke about the shipwreck at all. **THE SOLICITOR-GENERAL:** Do you mean to say that Burdon was not there?—I never said that Burdon was not there; he was in the library.” Now, inasmuch as Burdon has sworn that he heard what passed between Mr. Seymour and the defendant, it is material to know whether he was present; the defendant positively contradicts him, and says he was not. “*Q.* Was he there during the conversation?—No, certainly not. *Q.* That is exactly what I asked you?—Not in that room, no. *Q.* I mean in the room?—You did not say ‘room,’ you said he was not there. *Q.* Do you mean to say Burdon was not in the room during the conversation?—Certainly. *Q.* Did not Burdon, during the conversation, put an envelope across the table and ask you if you knew

the handwriting upon it?—He did not. *Q.* Did you say you did not know it, and give it back to Burdon?—I did not. *Q.* And did Mr. Hopkins say, ‘That is your father’s writing, Sir Roger?’—No. *Q.* ‘That is your father’s writing, Sir Roger?’—I tell you that never happened; he was never in the room at all.” Now there is here a positive contradiction between the defendant and Mr. Danby Seymour and Burdon on a matter which is by no means immaterial; because a man not knowing his father’s handwriting would naturally be a startling thing. We have therefore here a contradiction of a very serious character. The witnesses must be perjured on one side or the other, because this was a matter about which there could be no doubt. The defendant must have known whether an envelope was shown to him at that meeting in the handwriting of his father, which he did not know or recognize. If it was so, can we suppose that the defendant’s memory was so affected on a point of that kind, that on the examination shortly after the transaction to which it relates he should have forgotten it? Therefore it seems to me impossible to reconcile this with any possible hypothesis except that of one or other of those parties having told you that which is false. Then, as to the helmet; the defendant is asked: “Was there a helmet produced and tried on while you were there?—While Mr. Seymour was there? *Q.* Yes?—No. *Q.* No helmet at all?—Not when Mr. Seymour was there. *Q.* Did not Mr. Hopkins bring down a helmet and put it on?—He did not. *Q.* While Mr. Seymour was there?—No, he did not. *Q.* Did not Mr. Seymour say it did not seem to fit well?—I say it did not happen. *Q.* Did Mr. Hopkins bring down the helmet?” I am not sure whether the Solicitor-General was not wrong in putting the question in that form; because, according to Mr. Seymour, the defendant himself brought out the helmet. “*Q.* I do not mean that he put it on his head, but on yours; you understand me?—It does not happen to be on the occasion that Mr. Seymour was there. *Q.* Mr. Seymour was never at Mr. Hopkins’s with you but once?—I have answered the question, that he did not put any helmet on my head in Mr. Seymour’s presence. *Q.* Nor did you put it on your own?—Nor did I put it on my own. The LORD CHIEF JUSTICE: Did any one put it on in Mr. Seymour’s presence?—Not on that occasion. The SOLICITOR-GENERAL: Was there a helmet produced in Mr. Seymour’s presence at Mr. Hopkins’s on that or any other occasion?—Not in Mr. Seymour’s presence. *Q.* While Mr. Seymour was there, so as to see it?—Yes. *Q.* Did Mr. Hopkins bring the helmet, saying he had got it from Colonel Lushington, at Tichborne, and that it was Roger’s helmet when he was in the Carabineers?—It was never produced in Mr. Seymour’s presence at all. *Q.* Did Mr. Seymour ask you why you did not go and see his sisters—your aunts?—He did not. *Q.* Did

he, at the end of the interview, say he did not believe you to be Roger Tichborne, but if you had anything more to say to him he was perfectly willing to see you again and hear anything you had to say, if you called at 39, Grosvenor Street?—It so happened I did not see him at the end of the interview; I was about five minutes in his presence, and he spoke two or three words in French; I answered him in English.—He got up and said he would not remain in the room without Burdon.—Mr. Hopkins said, if that was the case, it was as well that I should go into the garden and smoke a cigar; I did do so; when I returned from the garden he was gone. Q. Did Mr. Seymour at that time, or at any period, or any point of that interview, say that he did not believe you to be Roger, and if you wanted to say anything more to him, or have any conversation, he would receive you and hear anything you had to say, if you liked to call at 39, Grosvenor Street?—He did not in my presence; I believe, from what Mr. Hopkins told me, that that is what he told him, but not to me. Q. He did not say it in your presence?—Certainly not. Q. Mr. Hopkins said he said it to him?—I believe he made some appointment. Q. Was it not to that effect, that he did not believe you were Roger: but, if you wished to see him and have any more conversation, he was ready to receive you at 39, Grosvenor Street, if you liked to call?—Just so; mind that was not said to me, but said to Mr. Hopkins.” Then he is asked as to a bundle of letters that were introduced. By the way I omitted to mention, Mr. Seymour told us a bundle was introduced of Roger’s letters written before he left this country, and it struck his mind at the moment that there were marginal marks on the letters wherever a mis-spelling occurred, and he wished to have the letters. Mr. Hopkins offered him the letters to take and read; he at first declined, then it occurred to him he might as well have these letters and peruse them carefully, and he asked for them again, and then Mr. Hopkins refused. “Q. Was there at that interview at Mr. Hopkins’s, when Mr. Seymour was there, a large mass, a great bundle, of Roger Charles Tichborne’s letters produced?—Letters—no; not a letter of any description. Q. Not a letter of any description?—At least I never saw any letters; as for one of my letters I never saw any at Mr. Hopkins’s in my presence.” Then after a good deal more of questions and answers with reference to these letters, he is asked: “Did Mr. Seymour the last time before you went out treat you as his nephew or not?—Oh, yes, certainly he did. Q. He accepted you, you mean, as his nephew?—Upon my word I do not know when you are talking of; you say the last time when I went out. Q. I mean on the one occasion, and the one occasion only, you could not have supposed I meant any other, when he was at Mr. Hopkins’s house at Alresford, when he came down in consequence of your letter to him—That is the time I am speaking

of. Q. When he parted from you on that occasion—whether it was you or he left the room I care not—when you and he parted, did he part from you on the footing that you were his nephew?—Well, considering he would not remain in the room without having Burdon with him while I was there, I should not think he did. Q. Do you mean that he disbelieved? MR. SERJT. BALLANTINE: He does not say that at all. THE SOLICITOR-GENERAL: Do you mean that?—I simply tell you what took place. MR. SERJT. BALLANTINE: What he says is that he did not treat him as his nephew. THE SOLICITOR-GENERAL: Did he own you as his nephew?—Certainly not.” Then Mr. Serjt. Ballantine interposes with this observation, which I do not think the learned counsel was fair in doing, considering the man to whom this inquiry referred: “That is quite a different thing to disbelieving him.” It is insinuating that Mr. Seymour did not disbelieve him while ostensibly he assumed to do so. “THE SOLICITOR-GENERAL: Did he disbelieve your story? MR. SERJT. BALLANTINE: How can he tell whether he disbelieved it? THE LORD CHIEF JUSTICE: What we have got is, that he did not accept him as his nephew, and the plaintiff says that he heard from Mr. Hopkins afterwards that Mr. Seymour said he did not believe him to be Roger Tichborne. MR. SERJT. BALLANTINE: Certainly, my Lord; I concede the whole of that. THE LORD CHIEF JUSTICE: That is the result of it; you have got it altogether. THE SOLICITOR-GENERAL: Did he throughout the interview treat you as if you were not his nephew?—Yes, he did.” Now the importance of that interview is, that it gave Mr. Seymour an opportunity of judging of the defendant’s identity, and nobody could be better qualified to judge of it than he; though of course he might make a mistake like anybody else; but Mr. Seymour, as the result of that personal observation of the defendant, as well as from the questions he put to him and the answers he got, went away with a disbelief in the identity of the defendant. Secondly, having the opportunity of seeing Burdon, whom Roger knew, the defendant made the double mistake of first believing Burdon was one of his cousins, and secondly that of not knowing Burdon, whom, unless his memory failed him, Roger would have recollected. Then there is the further circumstance of his wholly ignoring M. de Mandreville, one of the oldest friends Roger ever had; and, lastly, the circumstance of his ignoring his father’s handwriting.

After this interview with Mr. Seymour the defendant writes a letter to his mother, in which he refers to it. Let us see what he says. She was coming over to the Lord Warden Hotel and he writes to her. I observed to you when this letter of the 15th of February, 1867, was read in evidence, that the date of the month is not written *in extenso*, as most people write the date of letters, but in a way some people date, namely, writing not only the day of the

month in figures but the month itself also in figures, and then as usual the date of the year in figures—thus 15/2/67 ; and that is a very common way of the defendant in dating his letters ; and it has been seen that in no instance Roger ever dated a letter in that way, and I think I may say that almost uniformly Roger dates his letter not at the top of the letter but at the bottom ; he never dates a letter in that respect in the way the defendant often does. But although that has been observed upon, and although it is a circumstance which may have more or less weight, I do not think too much weight should be attached to it, and for this reason, that in the course of a certain number of years people acquire different habits. A man may put the date at one time at the top of his letters, and at another get into the habit of putting it at the bottom ; a man who dates at one period, writing in the ordinary way, 15th of February, 1867, writing the month with letters and not in figures, may, seeing other people use a different practice, acquire that habit himself. I do not, therefore, attach much importance to that. At the same time it is a fact that the undoubted Roger appears never to have done it. The letter is as follows : “ My Dear Mamma I arrived here from Alresford night before last so that I can come and meet you when you arrive at Dover. My dear Mamma I have meet with many friends at Alresford that knew me well, and have received a very welcome reception from them. the Alresford Church bells rung very merrily when I arrive. I received a visit from Col. Lushington at Mr. Hopkins. He lunch with us at Hopkins the next day with Mrs. Lushington Hopkins and myself then returned with them to Tichborne. I pointed out to the Col. the picture that belong to me.” Whether that is intended to be “ picture ” in the singular, or whether, as sometimes happens, he has left out the final “ s,” which would convert the singular into the plural, I do not know. The statement that he pointed out the picture or pictures may have been right, as the recollection of the real Roger would recall the picture or pictures that belonged to Roger ; and, inasmuch as there were a good many more than one that belonged to Roger, I should suppose that was intended to be in the plural and not in the singular. You now see the importance of any communication Bogle may have made about the pictures. Bogle was desired to see what pictures there were ; and if he came back and said there is this or that picture, there would be nothing easier than for the defendant to say, “ Ah ! I recollect that picture ; that is the picture of the Queen ; ” and, seeing the picture of a handsome-looking woman, “ Ah ! that is mamma,” which would be quite natural. The letter continues, “ the Col. found my Helmet and I put it on. it fit me now has well has ever. of cause.” That, again, is one of the characteristics of the defendant’s spelling ; when he means to write “ course,” he invariably writes it “ cause,” or

“course”—“of cause the Col. is perfectly satisfied, and has acted very kindly and told me. he would give up the house at any time I wanted it. He invited me to go and stay with him and take my wife there with me. but I cannot well do that at present. poor old Stubbs and Noble knew me as soon as they see me. Likewise a great many more about there. the Tichborne bells rung for two days. And in fact I could not have been received more kindly.” I may mention here that the word “received” is spelt by the defendant over and over again, indeed I may say uniformly, without the “i,” which is necessary for the correct spelling of the word. “I have received a very kind letter from Mr scott, and Mr and Mrs Mark.”—I believe the name is Marx—“I have seen Henry Seymore”—spelt “m-o-r-e”—“but he had been so poisoned by Cullington and Gosford that at first he would not own me. Mr. Hopkins very kindly had a long talk with him and so did I.” Now observe these words, “Mr. Hopkins very kindly had a long talk with him and so did I”—I have just read you his cross-examination, in which he says the whole conversation did not last above five minutes—“Mr. Hopkins very kindly had a long talk with him and so did I. of cause he soon altered his mind a little.” You know Mr. Seymour says he never altered his mind at all, or intimated that his opinion, once formed, underwent any change or modification whatever—“he brought William Burdon there with him. but as Mr. Holmes had found out that William had been tampered with. I would not allow him in my company. nor would Mr. Hopkins.” Now not a word was said by Mr. Holmes about William Burdon having been tampered with, nor was any objection made on that ground by Mr. Hopkins to Burdon’s presence, who, according to Mr. Seymour’s account and Burdon’s account, upon Mr. Seymour saying he insisted on having a witness to hear what passed, was allowed to remain in the room and hear what passed, and take part in the affair himself by producing that envelope, and showing it to the defendant—“Cullington had told Uncle Henry”—There we have Mr. Seymour referred to as the uncle—“Cullington had told Uncle Henry that I was a client of Mr. Hopkins. and a great many more things that Henry did not know.” Then the word “falsehood” is interposed between that and the next line; and I suppose what he meant was “a great many more falsehoods” instead of “things,” but he did not strike out the latter word. “Mr. Hopkins is now living independent and has only acted has a friend to me there is a great many things that I wish to speak to you about as soon as you come. I am now waiting for your telegram to come and meet you at Dover. my Wife and Child are quite well and very anxious to see you. They send their love to you my dear Mamma. and I remain your affectionate Son.” In that letter of twenty-seven lines there are a great many mistakes; not less than nine mis-

spellings; half a dozen mistakes of grammar; no less than ten mistakes as to the use of the capital letter. Let us next see what the defendant says with reference to that letter when he is cross-examined about it. "Now, how came you to tell Lady Tichborne that you had seen Mr. Henry Seymour, but that he had been so poisoned by Cullington and Gosford that at the first, he would not own you, that Mr. Hopkins had at last talked with him, and so had you, and of course he soon altered his mind a little? Is it true you had a long talk with him?—No; I did not have a long talk with him. *Q.* What did you mean by telling Lady Tichborne 'Mr. Hopkins had a long talk with him, and so did I'?—But I did not mean a long talk with him. *Q.* 'So poisoned that at first'?—So Mr. Hopkins told me. *Q.* 'Mr. Hopkins had a long talk with him,' and 'so did I; and of course he soon altered his mind a little'?—Mr. Hopkins told me his mind was very much altered when he left. *Q.* You say you had a long talk with him?—No; I said Mr. Hopkins had a long talk with him, and so did I. *Q.* 'So did I'?—That does not impute a long talk. *Q.* And it don't impute he altered his mind about you in consequence of your talk?—No, it does not. **LORD CHIEF JUSTICE BOVILL:** You say he altered his mind, and Mr. Hopkins told you so?—Mr. Hopkins told me his mind was very much altered when he went away. *Q.* I thought you said just now"—that is in the prior part of the cross-examination—"the reverse of that?—They asked me how he treated me while I was present. *Q.* Just now, I thought you told me that Mr. Hopkins told you when Mr. Seymour went away he said he did not believe you to be Roger Tichborne?—When I went out of the room: I think that was the answer. *Q.* You said, when he went away he did not believe you to be Roger Tichborne; if you had anything further to say he was ready to see you at 39, Grosvenor Street?—Mr. Hopkins told me his mind was very much altered indeed. **THE SOLICITOR-GENERAL:** Did he say when he went away (according to Mr. Hopkins), he did not believe you to be Roger; but if you chose to call at 39, Grosvenor Street, he would see you?—What Mr. Hopkins told me, and the letter now reminds me of it, was, he had made arrangements for Mr. Holmes to write to him, and make an appointment at 39, Grosvenor Street, and from Mr. Hopkins's conversation he seemed very much altered in his opinion. **THE SOLICITOR-GENERAL:** Now I ask you this, whether Mr. Seymour did not say to yourself that he did not believe you were Roger Tichborne: if you chose to come to Grosvenor Street at all he was ready to see you; whether it was not said to yourself, and whether you yourself did not appoint to go to him at five the next day, and accompany Burdon and Mr. Seymour to the door of Mr. Hopkins's house?—I did not: I take my positive oath and solemnly swear I was in the garden when Mr. Seymour went away." Then he denies

having made the appointment to see Mr. Seymour the next day. Mr. Seymour evidently so understood it, for he tells us he invited his sisters and Colonel Greenwood and such other members of the family as were in town to come to Grosvenor Street next day. They assembled accordingly, but the defendant never came. Instead of the defendant making his appearance, Mr. Holmes writes this letter: "February 14th, 1867. Dear Sir, I understood Sir Roger that, as his mamma was hourly expected at Dover, he had left Alresford, and was holding himself in readiness to start at a moment's notice to meet her there upon receipt of a telegram. I shall not see him this evening, and think our meeting with you had better take place after your return from the country. I regret not being in when you called, for I should like to have shown you some papers connected with the business. Truly yours." Then there was a good deal of cross-examination on the subject of the defendant not having gone to Mr. Seymour's, the defendant complaining loudly of the conduct of Mr. Seymour in not acknowledging him, and so accounting for his not having gone to him again to obtain from him a recognition of his identity. He gets angry; the Chief Justice tries to soothe him, and says: "Just consider for a minute; you get excited by this conversation, but the question, as I understood it, was this, what was there when you first came over that had occurred to prevent your going to one of your nearest and most confidential relations?—That, I believe, I answered some time previous; it was my mother's wish that I should not do so. Q. After you had seen your mother, Mr. Seymour had offered to see you again in Grosvenor Street; was there any reason you should not have gone to him then?—Yes, there was a reason. Q. What was it?—I cannot exactly say; I have no doubt Mr. Holmes could state the reason; it was Mr. Holmes's wish, and he wrote to me telling me not to go there; he found out a reason for doing so. The reason was stated to me at the time, but I certainly cannot state now what it was."

Gentlemen, it is a circumstance well worthy of observation, that in the foregoing letter of the defendant the name of Seymour is spelt Sey-m-o-r-e. "I have seen Mr. Henry Seymore, but he had been so poisoned by Cullington and Gosford, that at first he would not own me." I do not know that you could have a more striking instance of ignorance on the part of the defendant than that the name of Mr. Seymour should be written by him m-o-r-e. The attention of the defendant was called to it on his cross-examination. He was then asked whether Roger Tichborne had ever written the name of Seymour in that way, and his answer was that the name as appearing in this letter of his was intended to be Sey-m-o-u-r. I desired to have the letter handed up to me, that I might see, and satisfy myself,

and that you might, by taking the letter into your own hands, satisfy yourselves, whether that name is written correctly.

Now, the word appears to me, beyond all question, as far as I can judge, to be written, not, as the defendant says, Sey-m-o-u-r, but Sey-m-o-r-e. But it occurs also in a prior letter—a letter of the 12th of February, to the Dowager Lady Tichborne, where the name is beyond all question written Sey-m-o-r-e.

Now, the fact that he writes in both these letters (which is quite unmistakable when you come to look at them) instead of Seymour Sey-m-o-r-e is strikingly significant. Roger Tichborne knew how to write the name of Seymour just as well as he knew how to write his own. He certainly never wrote the name of Seymour otherwise than Sey-m-o-u-r. The only explanation offered by the defendant, that he meant it for m-o-u-r, on the actual inspection of the letter itself proves fallacious. There can be no possible doubt that the word is Seymore in both instances. The learned counsel for the defendant, however, treated it as unimportant; he said that, “in the 17th century there was a distinguished individual of the name of Seymour, who wrote his name Sey-m-o-r-e.” But can that have any effect on the present question? The question is, how would Roger Tichborne have written the name of Seymour? Roger Tichborne learnt a little history, but I do not think his researches were quite so recondite as the learned counsel’s, or that he knew of this distinguished man who wrote his name Sey-m-o-r-e. The question is, how Roger Tichborne would have written it, and whether it is not a serious incongruity on the part of the defendant that he wrote Sey-m-o-r-e.

The promised meeting at 39, Grosvenor Street, not having taken place, Messrs. Dobinson and Geare, acting at that time for the trustees, wrote a very proper letter, I think, to Mr. Holmes :

“Dear Sir,—In our letter to you of the 7th of January last, we stated that your client, whom you designate as Sir Roger Tichborne, would doubtless be received by the Tichborne family with open arms upon his identity with the eldest son of the late Sir James Tichborne being established. In the instance of Mr. Danby Seymour only has your client been allowed to have an interview with any member of the Tichborne family (other than the Dowager Lady Tichborne), and then an appointment was made for a renewed interview on the following day, which was not kept by your client; and again, another appointment was made for the day succeeding, which in like manner proved fruitless. Thus your client has held himself not only aloof but in secret from all whom he claims as his relatives, except the Dowager Lady Tichborne. It would seem to any candid mind that the issue is a very simple one. It is not a question of remote or intricate pedigree, but of mere personal identity, the times being of the most recent date. When Mr. Roger Charles Tichborne left this

country he was twenty-four years of age, he had lived on the most intimate and affectionate and familiar intercourse with numerous friends and relatives; there are scores of persons now living who could identify him to a certainty; the great majority of his relatives have no pecuniary interest in the issue whether he be dead or living—they are persons of position and honour, irrespective of mere fortune, far above all possibility of being influenced by any other than honourable motives; there is not and there cannot be any reason why members of such a family should not only readily but eagerly acknowledge the identity of a relative long supposed to be lost, and himself the representative and head of a family of distinction and fortune. To our minds, it seems an imperative duty to try every means of preventing litigation where litigation ought not to exist. If you feel your client's claim to be well founded, you will not hesitate in permitting him to meet the relatives and friends with whom Mr. R. C. Tichborne lived and associated from early youth to the time of his leaving this country. We require such a meeting on behalf of those whom we represent, and it is a necessity, as we conceive, that your client submits to such requirements; he may surround himself with every protection and aid you think necessary on his behalf; counsel, solicitor, and friends; choosing time and place; but if he still, after this offer, refuses to meet those who are best able to form an opinion of his pretensions, he must expect to have them dealt with as groundless, and wholly unworthy of credit. We hope, however, you will avail yourself of our suggestion, and make arrangements for an early meeting. We are, dear sir, yours truly, Dobinson & Geare."

Mr. Holmes might very well have said, "On behalf of my client, I decline to agree to such a meeting, and for this reason: it is true his relatives and friends are persons of position and character, but they have conceived a strong prejudice against him, manifesting, by what has happened, an entire disbelief in him, and any meeting he might have with them would only expose him to be treated as an impostor, and would be very unlikely to end in any satisfactory result, and therefore I decline. If I thought their minds were still perfectly open, I should have sought it; as it is I decline." If he had used that language, I could have understood it, but, instead of that, he writes a letter in what I must call a very high and lofty tone, and hardly, I think, such an answer as a gentleman entertaining the honourable feeling a solicitor usually manifests in matters of this kind, would properly write: "28th February, 1867. Dear Sirs. Tichborne. In your communication to me of the 7th January, you stated that my client 'would doubtless be received by the Tichborne family—'" and he then cites that passage from the letter which I need not repeat. Then he goes on to say, "In your letter of

the 22nd inst., the receipt of which I beg to acknowledge, you refer to that of the 7th January, and state ‘to our minds it seems an imperative duty to try every means of preventing litigation,’ and further, ‘if you feel your client’s claims to be well founded you will not hesitate in permitting him to meet the relatives and friends with whom Mr. R. C. Tichborne lived and associated from early youth to the time of his leaving this country.’ You appear altogether to ignore the fact that Sir Roger Tichborne has already been fully identified as the eldest son of the late Sir James Tichborne, by those with whom my client lived and associated from early youth until he left England, and who could not possibly be mistaken as to his identity, and I may add, by those who have no personal interest one way or the other. As you have overlooked the important fact, allow me to remind you that upon his return to this country, Sir Roger went to Paris, and in the first instance visited his mother the Dowager Lady James Tichborne, and that she instantly recognised him; of this your clients are well aware”—Now the circumstances under which the recognition by Lady Tichborne took place, and to which I called your attention yesterday, had been witnessed by Mr. Holmes himself—“Again, Mr. Hopkins, of Alresford, who acted as solicitor for Sir Roger and his father, has most unreservedly identified him, and written to Lord Arundel and Mr. Danby Seymour informing them of the fact. Mr. F. J. Baigent, of Winchester, an old friend of the family, and many of the tenants, servants and friends to whom my client was well known in his youth, have also identified him. Surely, after this abundant proof that my client is Sir Roger, the eldest son of Sir James Tichborne, it is idle to talk of any further identification being required. I have called your attention to the course taken by Sir Roger, in visiting in the first instance his own mother, and then his family solicitor, and old friends, tenants, and servants, and I may reasonably ask who ‘the Tichborne family’”—in inverted commas—“would suggest as being better qualified than the mother of Sir Roger to establish the identity of my client. But now allow me to remind you of what has been done by or on the part of those interested in denying his identity. As soon as they were informed of his arrival in England they caused him to be hunted, and traced his footsteps, broke in upon his privacy, and watched his every movement, as if he had been an impostor; and not satisfied with that, the press was even influenced to denounce him as such. I know of nothing so painful as the position in which Sir Roger has been placed by being thus treated. Is there the slightest ground for palliation of such conduct or for doubting the object which they who pursued it had in view? It was continued towards him even after he had placed himself under my protection. Sir Roger and his mother Lady Tichborne are now, and since her

return from Paris have been, living in the same house in Croydon. I have submitted your letter of the 22nd instant to them, and am instructed to say that they feel indignant at the disgraceful conduct referred to. Sir Roger will certainly hold those who persisted in it responsible to him. I cannot for a moment believe that you have been privy to it, and I should be glad to be informed that it has not been known to or countenanced by any of your clients. As soon as possible after the receipt of your letter of the 25th of January, instructions were laid before counsel with the object of instituting immediate proceedings to establish my client's rights; but in consequence of your last letter, they will be delayed for a week, in the hope that after the facts I have brought to your notice, such rights will be admitted by your clients without suit. I fully agree with you that in so clear a case as this, litigation ought not to exist if it can be avoided. On the part of my client I insist that his identity has already been sufficiently and fully established. At the same time I request to be informed the names of those members of 'the Tichborne family' for whom you are acting, and who, if any one, they would suggest is better qualified to establish the identity of Sir Roger than his own mother"—a sneering question—"and I must expressly stipulate that your clients shall use their influence to prevent a repetition of the annoyances so justly complained of. With regard to your remark relating to Mr. Danby Seymour, my correspondence with him shows that I was unable to keep his appointments, but that there was no disinclination whatever either on Sir Roger's part or mine to see him as many times as he wished. I am, dear Sir, yours truly, John Holmes." Well, this was a letter written in a rather lofty style, but Mr. Holmes seems to have thought better of it afterwards, and Mr. Radcliffe, now Sir Percival Radcliffe, and Mrs. Radcliffe, having expressed a wish to see the defendant, he informed them that they might see him at Croydon any day they thought proper to do so; and, accordingly, on the 8th of March they went to Croydon for that purpose.

I now come to the first interview at Croydon, which is one of considerable importance with reference to the things that occurred at it. Mr. and Mrs. Radcliffe, accompanied by Mrs. Townley and Mr. Plowden, went down on the 8th of March. When they arrived, Mr. Radcliffe and Mrs. Townley went into the house, while Mrs. Radcliffe remained for a time at the gate or door in the cab with Mr. Plowden. They were shown into a room, described by the witnesses as a back room on the same floor as the drawing-room; a small room with a large window in it, and which let in abundance of light. When they had been there a little while the defendant came in, and according to the statement of Sir Percival Radcliffe and Mrs. Townley, he went up to the latter, addressing her as though she

had been Mrs. Radcliffe, and said to her, "How do you do, Kate?" You have seen Mrs. Townley, who certainly is not like Lady Radcliffe; but, if this evidence is correct, when the defendant came in and saw her with Mr. Radcliffe, he jumped to the conclusion that she must be Mrs. Radcliffe, and addressed her accordingly. We have the evidence of Sir Percival Radcliffe as to what passed after this. He says he first spoke to the defendant and said, "When did we last meet?"—"Well," he said, "I have never seen you before, or I do not recollect; I only know you married my cousin. Q. Tell me, if you please, what accent he talked to you with as regards language?—He spoke in a sort of attempted broken English—'How—do—you—do?' That sort of style. 'When—did—we—meet? How—are—you?' That sort of style; perhaps not as I am at this instant making it, but that style of talking. Q. And he continued speaking in that style, did he?—He continued during the whole conversation, more or less; but now and then he appeared to lose it, when he got a little excited; he returned again to it every now and then." Then, according to Sir Percival, Mrs. Townley, who had gone in with Mr. Radcliffe, interposed and said, "'I have got a cousin I have left in the cab below; would you have any objection to see her?' He said, 'Oh, dear no.'" She got up; the witness says he was rising to do so, but Mrs. Townley got up quicker and went out of the room, and fetched his wife in. He says, "Mrs. Townley, on coming back, did not mention the name, or say who the cousin was. When Mrs. Radcliffe came in, he shook hands with her or spoke to her; I will not be positive whether he shook hands with her; he bowed or shook hands—I am not positive on that point. Q. What did he say?—He said, 'How do you do, Lucy,' or 'Mrs. Townley.'" Then he is asked what time of the day it was?—"It was about three; before three, I fancy. Q. What sort of light was there in the room?—A very light room; there was a large window to the room. Q. Are you able to say whether there were one or two windows in the room?—Well, it was a very large one—that I am quite positive of, but whether there was any more light in the room I cannot say. Q. But, however, there was full light in the room?—A very light room; a small room with a very large window. Q. Now, if you will go on with the conversation after, 'How do you do, Lucy,' or 'Mrs. Townley?'—Then I think the next thing he asked was, 'How is Mr. Townley.' Mr. JUSTICE MELLOR: Still addressing Mrs. Radcliffe?—Yes, my wife. She then sat down, and Mrs. Townley and my wife both sat down, and I sat down, and they began to converse about different subjects. The LORD CHIEF JUSTICE: Did you say anything upon his inquiring of your wife for Mr. Townley? Did you make any remark?—No, I made no remark. I remarked it to myself. I saw

it at once, but I did not make any remark to him. Then they began to talk about different things. I cannot recollect the whole conversation, I can only recollect different little bits of the conversation. The matters they talked about were more matters they were conversant with than I was. Therefore I did not speak very much : but I made a few observations myself. At one time I saw the conversation was slacking—or before that, I must tell you, after they had talked some time—he still believing them to be just the contrary of what they really were—I should think they talked for four or five minutes, or a considerable time, I cannot say the exact length of time, but a considerable time, and he was under the delusion that Mrs. Townley was Mrs. Radcliffe, and Mrs. Radcliffe was Mrs. Townley ; that is quite positive.” Then Sir Percival says that after the conversation had gone on for some time, seeing that they were getting into a species of embroglio, to use a foreign term, a state of confusion, from the ladies keeping up the characters which did not belong to them, Mrs. Townley as Mrs. Radcliffe, and vice versâ, he at last said, “You do not seem to know whom you are talking to ; you are addressing my wife as Mrs. Townley, and Mrs. Townley as my wife.” So that, any mistake under which he may have so far been labouring was then set right. You will see presently what he said upon that being done.

Now, Gentlemen, if the effect of the evidence be to satisfy you that the defendant did mistake the two cousins one for the other, and that he mistook Mrs. Townley for Mrs. Radcliffe, can he be Roger Tichborne? Does a man after twelve years forget altogether the features of a woman with whom he has been passionately in love, and whom he knew for several years? *A fortiori* the observation would apply if the intimacy went to such lengths as the defendant represents. Does a man mistake for a woman with whom he has been so in love, a lady who has nothing in common with her in point of appearance, and who is considerably her senior in point of years? It therefore becomes a matter of much importance to see, first, whether this mistake was made ; and, if so, whether it was made under circumstances which enable us to say that the defendant had a fair opportunity of seeing the two cousins, of whom he thus mistook one for the other. Now that turns a good deal on a question on which the evidence is not altogether uniform—namely, whether these ladies at the time he made this mistake had their veils down or not ; and, if they had their veils down, whether the veils were sufficiently transparent to enable him to see their countenances at the time the conversation was going on. The ladies are not quite agreed upon the subject, and I must call attention to what they say. As I have observed, the great point to ascertain is whether he had a fair opportunity of distinguishing between the two. Mrs. Townley is asked, “Did you stay for

some time talking before it was made known who you were?—Yes ; we sat down for a few minutes together talking, and we both had our veils down. *Q.* And then did Mr. Radcliffe say anything?—Yes ; then Mr. Radcliffe said, ‘ You make a mistake ; this is Mrs. Townley and that is Mrs. Radcliffe.’ *Q.* And did you then lift your veil up?—I lifted my veil up. *Q.* Did Mrs. Radcliffe?—I think not.” Then Lady Radcliffe is asked her version of it. “ Upon entering the room—tell me exactly, as far as you remember it, what occurred : What was the first thing that was done?—I think he said, ‘ How do you do, Lucy?’ The LORD CHIEF JUSTICE : To whom?—To me. I think he said, ‘ How do you do, Lucy?’ That is my impression. Mr. JUSTICE LUSH : The defendant said that?—Yes. Dr. KENEALY : She says ‘ I think.’ Mr. HAWKINS : As a matter of fact Mrs. Townley is very much your senior?—Yes, she is, some years. *Q.* And is there any likeness between you?—I do not know ; I do not think so”—We can judge of that because we saw them both—“ *Q.* What next after ‘ How do you do, Lucy?’—Well, we tried to get into conversation : I forget what was said first. *Q.* You afterwards sat down in the room?—We sat down opposite to him. I was nearly opposite Mrs. Townley on the right side, and my husband on that, and he was sitting in front of us. *Q.* Was your veil up?—I pulled it up. It was a thin spotted veil. There was no difficulty in seeing. The LORD CHIEF JUSTICE : White or dark?—Black ; there was no difficulty in recognizing a person through it. Mr. JUSTICE LUSH : When did you pull it up? Before you sat down?—Just after I sat down, I think ; I am not quite sure ; very soon. The LORD CHIEF JUSTICE : Was it after or before he said ‘ How do you do, Lucy?’—I think it was after. Mr. HAWKINS : Did you sit in the light, or how were you sitting?—There was a strong light there, a window at the end of the room that fell across ; it was a very bright light upon all of our faces ; it was in the afternoon. *Q.* Do you remember your husband making any observation?—He said are you quite sure you know which cousin you are addressing, or something of that sort ; but that was after he had asked me about Mr. Townley. The LORD CHIEF JUSTICE : It is very important to have it exactly as it passed?—Well, there were several questions asked. *Q.* Just tell us what led to the question on the part of your husband to the defendant, if he was quite sure which cousin he was addressing?—Because he asked me after Mr. Townley, he looked at me and said ‘ How is Mr. Townley?’ Mr. JUSTICE LUSH : That is after you sat down?—Yes, after we sat down.” Upon this I said to her, “ Try and recollect at the time he asked you after Mr. Townley, had you your veil up?—Yes. *Q.* Or was it before you had taken it up?—Oh, yes ; I am sure it was after I had taken it up. *Q.* It was after you had taken it up?—Oh, yes, I am sure it was.”

Gentlemen, if this was so, he had then full opportunity, with abundant light in the room, of seeing their faces; and if after that he still went on under the delusion that it was Mrs. Townley he was addressing, when in point of fact it was Mrs. Radcliffe, the former Kate Doughty, it would certainly be very staggering.

By one of the JURY: There was a marked difference in their voices.

The LORD CHIEF JUSTICE: The observation which you have made, is certainly by no means an unimportant one. As the features of anybody you have loved remain impressed on the memory, the tone of the voice you have listened to with strong feelings of affection also remains there, so that you would not mistake it for that of anybody else. The observation is one, I confess, that had escaped me, but it is one which is by no means immaterial to the matter we are now inquiring about. Now the later statement of Mrs. Radcliffe is that her veil was up; but it is not quite what she said in the earlier part of her examination, and the matter is left in some little ambiguity; and if there is any doubt, the defendant ought to have the benefit of it. But still the question remains whether though the veils were down, the defendant had not an opportunity of distinguishing the features through the veils; and also whether, after the veils were taken up, his conversation did not exhibit a want of knowledge of the person whom he was addressing. Sir Percival Radcliffe's account of it is this: "I perceived that the two ladies were getting rather into a dilemma, they were asking questions which made it exceedingly puzzling, forgetting they were acting the parts, the one of Mrs. Townley, and the other of Mrs. Radcliffe, and they were making quite a puzzle of the whole thing; so I saw it must come to a finale somehow or other: and I thought he would discover which was which by the questions they were putting to him; and so I thought I would put it to him, and prove that he did not know which was which; so I said to him, 'are you quite positive that you are speaking to your right cousins?' and then immediately he said, 'Ah! I perceive now that you,' looking at Mrs. Townley, 'are Lucy, and you are Kattie, Mrs. Radcliffe, because you look older,' or 'you are older,' or some such remark as that." Now if that passed, it would be tolerably conclusive that it was not as a matter of memory that he distinguished between the two persons by the recollection of their individual features, but by an act of the reasoning faculty as distinguished from the memory; that knowing that Mrs. Townley must be older than Mrs. Radcliffe, he came to the conclusion on observing the difference in their appearance in point of age, that the one was Mrs. Townley and the other Mrs. Radcliffe; not by the exercise of his own memory about the features of one or the other.

Sir Percival gives us an account of what further passed. "After

that did the conversation still go on?—It went on, but it slackened after a time very much, and I made a remark to the claimant and said to him, ‘Now, come, surely you two cousins’—of course I was considering him as the cousin at that time—‘cannot you two cousins speak to some matters that occurred at Tichborne whilst you were there? and he looked in this sort of way’—then the witness described to you as if he were reflecting and said, “‘We—did—pick—flowers’—he said after a time. That was the only reply that he made.” Then the witness says, “I suppose I may observe he made a very different statement as to what he said to me—it was a very pointed thing. Q. Be kind enough to repeat the conversation first?—But the answer he said he gave to that question was absolutely false”—evidently referring to what had occurred on the former examination—“If you will refer to the notes—to the answer the claimant gave to the question I put to him—he swore before the court that when I put that question to him—‘cannot you two cousins recollect something that occurred at Tichborne,’ he answered, ‘What is it to you what passed between me and my cousin?’” Mr. HAWKINS: “I have not forgotten that—No more have I. Q. It is a most important matter, and I shall call attention to it presently, and ask you distinctly whether he ever said anything of the kind?—Most decidedly not. Q. Then did he say to you at that interview, or at any other time, ‘What happened between her and me in old times is sacred, and will never come to you’?—Most decidedly nothing of the kind or approaching it; the reply he made was, ‘We—did—pick—flowers.’ Q. Now if you will continue your report of the conversation, do you remember your wife asking the same question as you did as to when they last met?—Yes, I do recollect her asking that question. Q. What answer did he give?—I think she put that question after he knew which was her. Q. Well I have come to that time when you had revealed to whom he was talking?—Yes, after he knew that, he said he had last seen her at Tichborne; he had previously made the same remark to Mrs. Townley, fancying she was my wife. That was before my wife came into the room, to the best of my recollection. He said he had last seen her at Tichborne; and on my wife again putting the question in her own person, he made the same answer, ‘We last met at Tichborne.’ Q. Did he say any particular time, or allude to any particular event?—I think he did. Q. Do you remember whether he said anything about Sir Edward’s illness?—Yes, I think he did; but you see I did not know the whole history, and I did not pay great attention to those points.” Here Lady Radcliffe’s evidence comes in. She says after her husband asked the defendant, “‘Do you know which cousin you are addressing?’ he said, ‘I do not recognise them; they do not recognise me; we are all so changed.’ He

spoke in a sort of broken English; then he said, addressing Mrs. Townley, 'I see now you must be Lucy, because you look older,' or some words to that effect. 'I see now you must be Lucy, because you are older.'" "Do you recollect, without my suggesting to you," says Mr. Hawkins, "the order which the conversation took?—Well, I recollect several things, but I cannot say the order which they took. Q. Then did you ask him where you last met?—Yes, where we last met. The LORD CHIEF JUSTICE: You asked him that?—I asked him where we had last met; he said, 'At Tichborne, just before I went abroad;' or some words to that effect—that was the sense. Then I asked him if he remembered any person who stayed at Tichborne, and I think he said he did not. Mr. HAWKINS: He did not?—No, unless he named the Nangles; I am not sure, he might have named them; I will not be sure about that. Q. He said just before he left England he had seen you at Tichborne; did he make any reference at all to your father?—'When Uncle Edward was very ill.' Mr. JUSTICE LUSH: He said that?—That is what he said, but Roger never called him 'Uncle Edward.' The LORD CHIEF JUSTICE: Now, during your father's illness, before Roger went away, you say Roger Tichborne did not come to see you?—No, he did not. You were in the house at the time, were you?—I was." Then she is asked about a different matter. "Do you remember anything being said about your horse?—Yes, I asked him whether he remembered anything about my horse, and he said, 'No; I remember Uncle Edward's white pony that drew his chair.' Q. Had your father any white pony who drew his chair?—No, never; formerly my father rode a pony, but never a white pony, that I recollect. The LORD CHIEF JUSTICE: Never a white pony?—No, and he never had a pony-chair."

Then Mrs. Townley's evidence comes in, especially as to the conversation in which she took a part. She says, "I asked him if he recollected my mother, Lady Tichborne, and he hemmed, and hawed, and said 'Aunt Annie,' a name she was never known by. She was never known as 'Aunt Annie.' Q. What was her name in the family?—'Aunt Tichborne' always. Q. Did Roger know her as 'Aunt Tichborne'?—Always; he never called her 'Aunt Annie.' Q. Never—or anybody else?—I never heard her called by that name. Q. Did you ask him anything about your sisters?—Yes; I asked him if he recollected my sisters, and he said, 'Oh, yes: Eliza Elizabeth, Lady Dormer;' and then he said, 'Katie Greenwood, and Mrs. Higgins.' I then asked him if I had not another sister, and he said, 'No.' Then I mentioned Mrs. Hibbert. Q. What did you say?—'Don't you recollect Mrs. Hibbert?' and he did not seem to know anything

about her. *Q.* What did he say?—I do not know what he said, but he seemed not to have heard of her. *Q.* Was your sister, Mrs. Washington Hibbert, well acquainted with Roger?—I think so. I think she must have known him quite as well as I did, or even better.” We know that Roger visited Captain and Mrs. Hibbert at their seat, Bolton Grange. Then further on she is asked: “At this interview did you ask the defendant when he last saw you?—Yes, I remember asking him on that subject. *Q.* What did he say?—He said, ‘At Grove House, Brompton.’ *Q.* Whose house did he speak of that as?—My mother lived there for some years. *Q.* But what did he speak of it as?—As Grove House. *Q.* He did not mention your mother?—Yes, he said, ‘Aunt Annie’s house.’ *Q.* ‘Aunt Annie’s,’ and ‘Grove House?’—‘Aunt Annie’s,’ and ‘Grove House.’ *Q.* Was that correct?—No, that was not correct; my mother had left Grove House at that time. *Q.* When you last saw Roger?—When I last saw Roger. *Q.* That was in 1853?—1853; she had then been living about a year at 12, Eaton Place, West. *Q.* Do you remember asking him at all about his visit to Townley?”—You remember, gentlemen, that Roger went over from Stonyhurst in the early part of 1847 or 1848, one of the winter vacations, and paid a visit to Mrs. Townley—“Yes, I did: I asked him if he recollected paying a visit to Townley. First of all he said, No; then he said, Yes. I then asked him if he recollected the house, and he said he had quite forgotten it. Then I said, ‘You cannot forget what part of England it is in,’ and he said, ‘Oh, no; it is near Bath.’”—We know it is in the north of Lancashire.—“*Q.* You are quite sure that he said Townley was near Bath?—Quite positive. I then asked him no further questions.” In cross-examination she admits that the name of her eldest sister, the present Lady Dormer, was Elizabeth, and that she was usually called Eliza; so that the defendant, in speaking of Lady Dormer as Eliza Elizabeth, was not very far out, because, although her name was Elizabeth, amongst themselves she was called Eliza.

Another material statement was made by him on this occasion. Sir Percival Radcliffe says: “I cannot recollect everything that was said, but I recollect one very pointed thing that he said. He said, ‘I need not now make any more secret about it. I have the captain, and I have seven or eight of the sailors that were saved with me.’ I particularly remember his making that statement. The LORD CHIEF JUSTICE: Are you sure he mentioned the captain?—Quite positive, my Lord: but I am not quite positive as to the number of sailors saved with him. My impression is that he said seven or eight, but he mentioned a great number. *Q.* Of the crew, or how did he say?—‘Of the sailors,’ I think he said, ‘that were saved with me.’

He did not say the sailors of the 'Bella,' but he said 'the sailors that were saved with me,' because it occurred to me afterwards, whether he meant the 'Bella' or the other ship." Sir Percival says he was desirous of leading him to South America, but, for some reason or another, it appears that the defendant's lawyers had for the time tabooed that subject. Sir Percival says: "First of all, I must tell you that when he spoke about this captain and crew, it appeared to me that he was trying to draw on the conversation towards his loss, or something of that sort. I knew nothing at all about the loss, and I wished to draw the conversation towards Roger Tichborne's excursions or travels in South America, about which I did know, and so I said to him, 'Will you tell us,' or 'relate to us more of your adventures in South America?' His answer was, 'No, my lawyers tell me I must not talk upon that subject.'" Sir Percival is asked: "Do you remember saying anything to him about Lady Doughty?—Oh, yes; I reproached him. I asked him why he had not gone to Lady Doughty, because I knew Lady Doughty was exceedingly attached to Roger. I have often heard her speak most affectionately of Roger, and many times heard her say, before we heard of this man claiming to be Roger, that she felt convinced that if Roger turned up she would be the first person to whom he would come. Well, I put it to him that I thought he was behaving very unkindly to her in not going to her soon after his arrival, and he said he had heard she had said unkind things of him. He had seen it in writing, or had seen it in a letter; he had heard she called him an impostor. There was also another matter I put to him. I said, 'I thought he was behaving exceedingly ungratefully to the widow of his uncle, Sir Edward Doughty; that Sir Edward Doughty had been exceedingly kind to him in leaving to him property which he might have left to his own daughter—not exactly leaving it, but going into those family arrangements which were carried into effect by the settlement.' Q. That is the impression you had of Sir Edward Doughty's powers?—It was not impression, but it was the fact; the property at Tichborne I referred to; I knew the whole history of it. Q. What did he say to that?—I thought this would be rather a crucial point, putting that to him; and he answered, 'Oh, I made that all right in Paris.' I did not know what he meant, because I knew Roger made his will in London, and that Mr. Slaughter had made his will. Q. You knew that from the knowledge you had of the family?—Perfect knowledge, and knew all about Roger's will, of course. Q. And he answered you: 'I made that all right in Paris?'—'I made that all right in Paris.'"

Now these three witnesses agree that at that conversation the defendant spoke with an assumed French accent. "In what sort of mode or accent did he speak to you?—He spoke with an assumed

French accent. Q. Will you tell us why you use the word 'assumed'? What did you observe in it which makes you use the expression?—Because, when he seemed not to be thinking that he was talking to us, he broke out in regular vulgar English. Q. Did that happen more than once in the course of the conversation?—Yes, I think so. Q. At all events that was the impression left on your mind?—Yes." Then Lady Radcliffe was asked whether the whole conversation was in English. She says, "Yes; but he kept up a sort of French accent the whole time." In another place she says that, in addressing Mrs. Townley, he spoke with a foreign accent, which the witness when in the box attempted to imitate. "Q. Now you repeated what he said with something of a French accent in your own way; do I understand you that he spoke like that?—Yes; he spoke in a sort of broken English. Q. Will you repeat what he said as near as you can, with the accent with which he pronounced the words?" Then she imitated him: "'Ah, I see you must be Lucy, because you are older.'" Q. As he pronounced it?—"Ah, I do not recognise them; they do not recognise me; we are all so much changed." Q. And with that sort of an accent?—Yes, but much more of an attempt at a French accent." Sir Percival told us the same thing.

Let us now turn to the defendant's account of this interview, and hear what he has to say about it. After this you must form your own judgment upon it. He is asked, on cross-examination: "I believe you had two interviews with Mr. Radcliffe, had you not?—Yes. Q. Were you in the room on the first occasion, when Mr. and Mrs. Radcliffe and Mrs. Townley came in to see you?—I was not; not in the room they went into. Q. Did you go into the room where they were?—Yes. Q. Did you go up to Mrs. Radcliffe and call her Lucy Townley?—No. Q. Did you call her Mrs. Townley?—No. Q. Did you call her Lucy, and ask after Mr. Townley?—No. Q. Did you address Mrs. Townley as Mrs. Radcliffe?—No." Then he is going to say something, "They came——" and the Solicitor-General says, "Wait a moment: I will ask you, and then you shall give your account. Q. Had Mrs. Radcliffe got on a spotted veil?—I cannot tell, I am sure. Q. And was something said about the veil being down, and your being unable to see the features?—Not a word. Q. Did she lift it?—You are speaking of the first occasion. Q. I am speaking of the 8th of March, which I believe was the first occasion?—Nothing of the kind. Q. Did she lift up her veil for a strong light, so as to have the light come on her features full?—No. Q. After you had talked to them for some time, did Mr. Radcliffe say, 'Are you quite sure you are addressing your two cousins by their right names?'—No. Q. Did you talk in a sort of broken accent to them?—I did not. Q. A

sort of little French accent?—I did not. Q. You swear that, will you?—Yes, I swear that: I do not know if I had any accent or not; I spoke in my natural manner. Q. As you are speaking to me now?—Yes. Q. No more French about it than there is now?—No. Q. You did not put on a French accent at all?—I did not. Q. After Mr. Radcliffe had said to you, ‘Are you quite sure you are speaking to your two cousins by the right names,’ did you look at Mrs. Townley and say, ‘Ah, I see, you must be Lucy Townley, because you do look older than her, and you must be Katty Radcliffe?’—I certainly did not. Q. There is not a word of that true?—Not a word of it. Q. Did Mr. Radcliffe say, ‘Then you do not recollect your cousins?’ And did you say, ‘No, I do not recognise them; they do not recognise me; we are all so altered?’—I said nothing of the kind. Q. Did Mrs. Radcliffe then say to you, ‘When did we last meet?’—No. Q. Did you say, ‘Do you not recollect it was just before I left England?’—I did not. Q. ‘When Uncle Edward was so ill?’—I did not. Q. Did she ask you if you remembered her horse, and did you say, ‘No, I only recollect Uncle Edward’s white pony, which used to draw his wheel-chair?’—Good gracious me! I never said such a thing as that. Q. Nothing like that?—No, nothing like that. Q. Was there no allusion to the time when you and Mrs. Radcliffe had last met?—No, I think not. None. Q. You think not?—No; none. Q. Are you certain?—Quite certain. Q. Did you say anything about the illness of your Uncle Edward?—No. Q. Not a word?—Not a word.”

Then he is asked, “Where is Townley?—It is in Lancashire. Q. In Lancashire is it?—Yes. Q. Are you sure of that?—Yes, pretty nigh certain. Q. You are pretty nearly certain?—Yes. Q. Are you quite certain?—Quite certain. Q. You will swear it is in Lancashire?—Well, if it ain’t, it must be on a line dividing it from some other county. Q. You will swear it is in that part of England?—Yes. Q. You will, really?—Yes. Q. That you pledge your oath to?—That I pledge my oath to.” Well, he was right, and I do not know why the Solicitor-General went on worrying him about it. The next is the important question: “When Mrs. Townley came to see you and asked you in what county it was, did you say it was near Bath?—Certainly not. Q. That you swear?—That I will swear; yes. Q. Did she ask you where Townley was, and did not you say it was near Bath?—No, certainly not. Q. That is not true?—Certainly not.” Thus you see the defendant is in absolute contradiction with these witnesses. You must judge whether they are telling the truth, or whether he is. There must be falsehood on the one side or the other. He is then asked to give his own account of what did pass. “You have told me what did not pass; tell me what did?” Then he gives this

account: "I was sitting in the front drawing-room with my mother, when a cab drove to the front, and a lady and gentleman passed through the front garden to the door, and they announced themselves as Mr. and Mrs. Radcliffe; they were shown into the other drawing-room"—Mr. Radcliffe never said he took in Mrs. Townley as Mrs. Radcliffe, nor was he in cross-examination asked anything about it—"I then opened the folding-doors which divided the two rooms, and my mother and myself were about to enter, when Mr. Radcliffe, in the most rudest manner possible, came and slammed the door in my mother's face, and said, 'You are not wanted here.' That put me in such a state I hardly knew what to do. It had been reported about that I had refused to see people when they came to see me. I did not wish them to go away and say I refused to see them, and I knew my mother would be offended if I remained with them. However, I decided to remain and speak to them for a few minutes. Consequently, when I went in, the lady walked up the room and said, 'How do you do?' and I said 'How do you do?' and took her hand. She was deeply veiled. I was speaking to her a few minutes. It was not a light room. I found, to my great surprise, it was not Mrs. Radcliffe, it was Mrs. Townley. I turned round and asked Mr. Radcliffe what he meant by telling me it was Mrs. Radcliffe"—Sir Percival was never asked a question about that, and we are left in ignorance whether Mrs. Townley was announced as Mrs. Radcliffe—"He said, 'Mrs. Radcliffe is outside in a cab,' and he went and brought her in"—The statement of Sir Percival, confirmed by the others, is that although he rose to fetch his wife, Mrs. Townley slipped down before him and went and brought her in. "Q. That is your account?—Yes, and that is the true account. Q. That is the true account?—I do not hesitate to say that it caused a great deal of unpleasantness between my mother and me that I remained the few minutes I did in their presence. Q. When did you discover this mistake, that you were speaking to Mrs. Townley for Mrs. Radcliffe?—Before I had been speaking to her a minute and a half or a minute. Q. Then it is quite untrue that the ladies came in together, and you spoke to Mrs. Radcliffe for Mrs. Townley?—Certainly it is. Q. Absolutely untrue?—Absolutely untrue. Q. Did it occur to you, without intending any rudeness to Lady Tichborne, the object being to test who you were and the question being whether you could recognise your cousin, whom Lady Tichborne knew, but perhaps you, if you were not the right man, would not know, that Lady Tichborne might probably be——?" Then he breaks in before the sentence is finished, "Do you think it would occur to you to see your mother insulted by a fellow like that?"—that is the way in which he speaks of Sir Percival Radcliffe—"Do you think it would occur to you to see your mother insulted by a fellow like that in her own

house, and the door slammed in her face? *Q.* Answer my question?—No; it did not occur to me. *Q.* Did Mr. Radcliffe ask you why you had not been to Lady Doughty?—No, he did not; the only words Mr. Radcliffe said were, ‘Now here is your cousin who knew you, and you can talk about old times you know.’ I said, ‘What happened between her and me in old times is sacred, and will never come to you.’ *Q.* That you said to Mr. Radcliffe?—Yes, and that is all Mr. Radcliffe said to me.” Now that is positively contradicted by Mr. Radcliffe in that part of his cross-examination which I called attention to; and I declare, if I were a friend of the defendant’s, I do not know which alternative I should prefer—that he should be thought guilty of perjury in stating that that language had been used by him, when it had not, or that he should have used that language to Sir Percival Radcliffe. What should you think of a man who, having had, if he ever had, illicit relations with a lady, and who under those circumstances would be bound by every feeling of honour that ought to animate a man to protect her reputation against the world, but above all to take care that so far as he was concerned not a breath should reach the husband of what had passed between him and the lady—should use language to the husband which necessarily and unavoidably implied that he had had relations with that lady before her marriage, which must engender in her husband’s mind a feeling relating to her and towards her which would for ever destroy his happiness and hers? Because language like that could have but one meaning; “What happened between her and me in old times is sacred, and will never come to you.” If it was anything consistent with her honour, there was no reason it should not become known to the husband; but if it was something which necessarily implied that which was dishonourable to her, and which must go to shake the husband’s belief in her virtue, can you conceive a man using language which implied anything of that nature to the husband himself? I hope it did not pass; because if it did it implies a baseness, a vileness, an absence of every honourable feeling, of every feeling which ought to animate a man, to an extent compared with which—with the single exception of the charge made by him against Lady Radcliffe, if that charge should eventually prove to be untrue—it would be difficult indeed to find a parallel. You will believe him or not, as you think right.

The Solicitor-General further asks: “Did you not tell him you were advised by your lawyers to hold your tongue on the subject of South America, and at a future time you would satisfy him?—I did not tell him anything of the kind. *Q.* Did you say to him at parting, he being the last person in the room, ‘Tell Katty I have still got the little black crucifix that she gave me, and that she knows of?’—I did not; it did not happen to be a black one, it was a white

one. Q. Did you say that to Mr. Radcliffe?—I did not. Q. Did he say that he would?—I tell you I never spoke to the fellow at all.” That is the style in which he speaks of Sir Percival Radcliffe. It would not have been worth while to observe upon this rudeness if the learned counsel had not so strongly asserted that in the cross-examination of the defendant you would find sparks of the mind of a gentleman and a man of education and honour breaking out here and there, and that upon the whole you would, as the result of the cross-examination, be satisfied that his client was a man of high, lofty, and generous sentiments such as should animate the breast and regulate the conduct and demeanour of a man moving in Roger Tichborne’s position and rank in life. It becomes, therefore, necessary that, in addition to the instances which the learned counsel relies on, those also should be noticed in which something breaks out which is inconsistent with the character he thus seeks to claim for his client. When a man, supposed to be a gentleman, speaks of another of equal rank with himself, and entitled, as everybody is, to be spoken of in terms of respect, in low and coarse language; when he talks of a man like Sir Percival Radcliffe, because Sir Percival disbelieves in him, and denounces the man who comes forward to charge his wife with want of chastity and virtue as an impostor, as a “fellow,” and, as you will find a little further on, says he would have inflicted personal chastisement upon him if he had not been protected by the presence of ladies—language of that sort, by a person placed in the circumstances of the defendant, certainly appears anything but consistent with the character for high bearing and generous sentiment which the learned counsel claims for him. Of that, however, you are the judges. The great point which the defendant has made with regard to this interview has been that there was rudeness exhibited by Sir Percival Radcliffe towards his mother; which so agitated and excited him that he was not at all in a proper frame of mind to enter on the conversation, or to answer any questions which they put to him. Sir Percival Radcliffe, however, totally denies the defendant’s version of it; the way he explains it is this:—They went there for the purpose of seeing the defendant, and of testing him, to see whether, either from his personal appearance, or from the answers he might make to such questions as they should put to him, they could draw an inference satisfactory to themselves as to whether he was Roger or not. When he came into the room he left the door open, and it occurred to Sir Percival as possible that some one might be in the next room, and that Lady Tichborne might make her appearance. They certainly did not wish for her presence, because she might have frustrated the object they had in view, by interposing in the conversation, and giving assistance to the defendant on any points on which he might be at a loss; for, of course, she knew a great deal, and would be able to suggest answers

to the questions they put. When Sir Percival saw the door open he got up and shut it. He positively denies that Lady Tichborne was coming into the room at the time, or that he knew she desired to come. He says something of this sort passed. The defendant asked, "Would you like to see mamma?" and the answer was, "No, we have come here to see you, and we would rather see you alone." There was, no doubt, a refusal by Sir Percival to see the mother, as they did not wish that she should be present while the conversation was going on; but he denies that he saw her, or that she was attempting to come into the room, still less that there was the slightest personal rudeness or incivility offered her, or anything of the sort; he merely shut to the door, that what passed might not be heard outside, and that nobody might come in without their being aware of it. Out of this, great cause of complaint was raised by the defendant, as you will see.

The defendant was further asked whether, in the conversation which took place, Mr. Radcliffe did not ask how it was he had not been to see Lady Doughty—how it was that after all the kindness and affection she had shown towards him he had never written to her after the shipwreck, or been to see her since his return to England, and he denies it—as also whether Mr. Radcliffe did not say he had shown great ingratitude to her in return for Sir Edward's disposition of the property, and whether he did not say on that, "I made that all right in Paris," and he denies both. He says there was no such conversation: "I said nothing of the kind; he never spoke about it; the only words he spoke were when I tell you he came in, and what he said when Mrs. Radcliffe came in; that interview did not last seven minutes altogether. Q. Did you speak of Lady Doughty, throughout the interview, as Lady Doughty?—I do not know I spoke of her at all; I do not remember doing so. Q. I asked you whether you spoke of her?—How can I tell? I was in such a state of mind I do not know what I said. Q. You were in such a state of mind you do not know what you said?—Yes; I do not remember what the conversation was. Q. You cannot say whether you spoke of her a good deal throughout the interview, called her Lady Doughty, and called Sir Edward, Uncle Edward?—I do not think we spoke of them at all; if we did, it was but a passing remark. Q. It was very little?—It was but a passing remark. Q. Did you repeatedly, in answer to questions Mr. Radcliffe put to you?—then he interposes, and says, "I told you, I say he never put any questions to me—Q. That 'your lawyers would not let you speak, or that they advised you not to speak on such subjects'?—What subjects? Q. Upon such subjects as he was asking you about?—Certainly not; he never asked me about any subject whatever. Q. Did you tell him you had got the captain and several of the sailors who were saved with you in the 'Bella'?—No, I did not. Q. Then, did

Mr. Radcliffe ask you to relate some of your adventures in South America to them?—He did, and I refused to do it. Q. Did you give any reason?—Did I give any reason? Q. Did you give Mr. Radcliffe any reason for refusing to tell him any of your adventures in South America?—Yes; I told him his conduct too much agitated me to speak on such subjects. What?” says the LORD CHIEF JUSTICE.—“The SOLICITOR-GENERAL: ‘Agitated’?—The WITNESS: ‘Irritated.’ Mr. SERJT. BALLANTINE: Did you say ‘agitated’ or ‘irritated’?—Agitated.”

Such is the evidence relating to this interview, and it certainly forms one of the important chapters in the history of this case. If you bring your minds to believe that the defendant had full opportunity of distinguishing between his two cousins, and either at the outset made the mistake as to their identity, or after he had an opportunity of seeing both their faces, continued in his error, and still remained under the delusion that the one person was the other, and *vice versâ*, then I do not know any circumstance in the case which could be more adverse to the defendant; for, as I have said, I do not believe it possible that Roger could have made such a mistake so long as “memory held its own.” I cannot conceive it possible that he could have forgotten the lineaments of Kate Doughty; and I feel also the full force of the observation which your foreman made, that he would not have forgotten the voice, but it would at once, when it fell on his ear, have caused his whole frame to thrill with emotion, as being the voice of the woman he had loved, whom he had hoped for many a day to make his wife, and of whom there cannot be the slightest doubt he entertained a fond remembrance when separated from her by the wide ocean. There are other parts of the conversation which are not so important, but still are important with reference to the knowledge which Roger might be expected to have of the incidents of the past. The defendant and the three witnesses are directly at issue; you must judge between them. We are going on, step by step, and as we progressively advance through this history we are accumulating contradictions, which must lead us eventually to the painful alternative that either a multitude of witnesses are perjured, or that the defendant is. On which side the perjury lies it is your province, not mine, to determine.

We have now entered on the month of March—that interview was on the 8th—and I find just about this time a letter written by the defendant to Sir Talbot Constable, dated “Essex Lodge, Thornton Heath, Croydon, 9/3/67.” The date is marked as before by figures. “My Dear Talbot With great pleasure I received your kind letter last night I am very sorry to hear you have been ill I have not been very well myself for this last ten days I had Radcliffe and Katty and Lucy townley”—written with a small “t”—“here to see me

yesterday the meeting was not as agreeable as I should have wished it. because they would not see Mamma.”—There is here no complaint of the kind made by him on his cross-examination; no complaint of rudeness, but simply that they would not see his Mamma—“You must know how I must have felt. but what Could I do. If i had not seen them. they would have gone and said I was frighten to shew myself. and it was my Sol’ wish for me not to deny myself I wish my dear Talbot you would come and spend a fue days with me. my House is not very large. but we will find plenty of room for you. I expect to be able to go to Upton before long. Col. Lushington who lives at Tichborne has been so kind to me. that I really cannot turn him out. he offered to give up the House to me the first time I went to Alresford where every one seemed against me. But since my brother officers have been to see me everybody seems to change Now they all want to be my friends. But I say no. I do not want them. What right had they to write such things about me as they did. they reply that they ware told it was not me. but then they had no right to judge before they see me. they all say they are sorry for what been done. But that does not alter the impressions that those scandalious parapraphs have made on the minds of the public against me. I have already entered actions against some of them. and they do not seem to like it. I hope my dear Talbot to have many a good Hunt with you yet. I hope you will remember me to your father. who I hope to have the pleasure of seeing before long. Of course I have seen a great many things since I have been away. that we can talk of when we meet. Mamma tells me that you are now Married So we shall both have the pleasure of introducing one others wifes. I must now conclude for you know I am not very fond of writing Mamma is very thankful for your kind letter I am sorry to hear that you have given up smokeing. for my part I have given up buying retail. for I have to buy Wholesale now. but the D^r have put me on short allowance lately they only allow me twenty a day now. But I take care to get largest Cigars I can. This is the Longest letter I have wrote this ten years. So I shall now say good bye for the present.” Then comes a letter which, otherwise unimportant, is in respect of the spelling of one particular word a curiosity: “Dear Rous, I am sorry to say I am not well anuff”—spelt “a-n-u-f-f”—“to come down this week. I have only been out of the House once since this day week and I am not likely to get out for several days. I will write you to morrow full particulars five minutes to post.” Now in these letters of the defendant there are a great many mistakes of grammar and spelling which cannot fail to create a smile. It would be certainly, so far as my feeling is concerned, a very kindly and good-humoured smile if it involved nothing beyond the want of orthographical knowledge. I do not think one is entitled to sneer at a man because he has not had the same educational advantages as oneself. If you receive a letter from one in

the humbler station of life, who has had no better education than a village school can give, you read his letter with a kindly feeling; you may smile at his mistakes, but you do not sneer at them. The only importance of it here is—and it is for that reason I point it out—that, although you find many mistakes of spelling, grammar, and composition in Roger Tichborne's letters, they are of a totally different character. They convey to the mind the impression that they are the mistakes of a man who has imperfectly learned a language which was not the language of his infancy and childhood, and who makes mistakes of grammar and idiomatic construction from that cause. They are not mistakes arising from original want of education, or rather from an education in an humble sphere of life. Whereas the defendant's mistakes are such as arise from a totally defective and imperfect education, unless, indeed, you can give it another explanation. I have more than once observed—and I shall have to do so again with reference to the handwriting—that if you take the defendant's letters and compare them with the letters of Roger, whether in point of spelling, of grammar, of composition, of style, or in respect of the flow of language—if these two sets of correspondence were placed in juxtaposition as having been written by the same man, within anything like a short period of time, you would say at once that it was impossible, utterly impossible, that the letters could be those of one and the same man. The only suggestion that can be offered is that during the life he led in Australia for a considerable number of years, the persons in whose society he was thrown, being, like himself, persons of defective education, he has adopted their manner, their mode of writing, their style and manner of composition. Therefore, when passing along these letters, if I point out to you those mistakes, it will be, not at all with the view of creating a laugh at the expense of the defendant, but as a matter deserving of observation with reference to the identity of the two persons.

Gentlemen, the result of this first interview at Croydon was not the same on the minds of all the persons who had been present. Mrs. Townley was perfectly satisfied that it was not Roger, and Sir Percival Radcliffe appears to have been very much of the same way of thinking; but not having had the same intimate knowledge of Roger, never having met him but once before, when at Burton Constable at the commencement of 1847 or 1848, he did not think himself warranted in coming at once to a decision. When asked whether at that interview he had formed an opinion as to whether the defendant was Roger or not, he says—"My notion at that time was that my recollection of Roger Tichborne's countenance was not sufficient to have led me to give a decided opinion, whether he might be changed to what this man was; but there was nothing in my recollection of what Roger was about him, and also I thought the answers he made were extremely extraordinary." Lady Radcliffe seems to have been

unwilling to decide without further inquiry. The thing that struck her was, that there was something about the voice or the accent, which she thought reminded her of Roger. I will give it to you in her own words.—“ Before you left was anything said about another interview?—I am not sure whether it was said to him or not; we talked about it among ourselves. *Q.* You had an object, I believe, in having another interview?—Yes; it was after we went out. *Q.* I must not ask you what took place after you went out?—We were very anxious: I think we said to him, we wished him to come and see my mother. *Q.* You had no other interview with him until you saw him in court at the last trial?—No, I missed the train on the second occasion. *Q.* You were to have gone down on another occasion, but missed the train and did not see him?—Yes. *Q.* You saw him frequently during the trial?—Yes, every day during the first part of the trial. *Q.* At the close of your interview—that is after having had an interview with him, and heard him speak, and what he had to say, and hearing his voice—did you come to a conclusion as to who it was, whether it was Roger Tichborne or not?” She gives this as the state of her mind—“ I felt quite sure it was not; but, at the same time, I was unwilling to decide hastily; his voice rather deceived me. *Q.* You say he spoke with an accent?—He spoke with a French sort of voice. *Q.* Still you say you felt sure it was not?—No.” Then Dr. Kenealy interposes—“ I did not hear her say that.” Then Mr. Hawkins asks her—“ You afterwards heard him examined in court?—Yes. *Q.* And heard him examined on a great many days?—Yes. *Q.* And you had then the fullest opportunity, not only of observing his features, but of hearing his voice and his accent?—Yes, it was quite different then. *Q.* You had an opportunity of hearing that, and hearing him speak for a long while; was his accent in court the same as the accent you had heard?—No, quite different. *Q.* Had his accent, when you heard him in court, any trace of broken English?—Oh, no. *Q.* After having seen him and heard him in court during the time you have mentioned, did you then come to a positive absolute conclusion as to who he was, or was not?—Yes; I was convinced he was not, because he knew nothing; he could answer nothing; but at the same time I did not wish——” Then she is interrupted before she has finished the sentence—“ I am speaking after the whole opportunity you had, did you then come to a decided opinion on the matter?—Yes, I was quite decided. *Q.* Then, is that Roger Charles Tichborne, the defendant?—Certainly not. *Q.* When you saw him in court, was there anything about him then in the least degree like Roger Tichborne, when you had a full opportunity of seeing him?—Not the least when I saw him in court.” This seems, at all events, to have been the result of this first interview, that she was not to her internal conviction thoroughly

satisfied, and desired another interview, which, of course, her husband was perfectly willing should take place; and the then Mr.—now Sir Percival—Radeliffe wrote this letter to Mr. Holmes,—“ March 8th. Dear Sir, Mrs. Townley, Mrs. Radeliffe, and myself went down this afternoon to see your client. We regret to say that we do not feel satisfied with our interview; we should require some further conversation before we could really be quite certain that he is the Roger Tichborne we formerly knew. We tried to inspire confidence, but apparently failed in inspiring him with the same. Unfortunately, the train compelled us to curtail our visit, therefore, we think that for all parties it would be much more satisfactory if he would kindly meet us at our hotel on Sunday next, and you will oblige me by giving me an answer to-morrow (Saturday) by as early a post as possible, and name the hour.” Mr. Holmes replies the next day—“ Dear Sir, I am glad that you and Mrs. Radeliffe with Mrs. Townley saw Sir Roger Tichborne yesterday at Essex Lodge. The more he sees of his relations, the sooner I am convinced will a satisfactory ending be put to their doubts and uncertainties. But he tells me that it was most painful to him your declining to see his mamma. I shall not see Sir Roger until this evening, and therefore cannot say whether your appointment for Sunday will suit him. I am sure that personally he will be happy to meet you. I will write you again to-night if the post serves.” There, again, I must observe that the utmost extent to which the complaint goes is that they declined to see the “mamma;” not that they had been guilty of any rudeness towards her. On the 10th of March, Mr. Holmes writes again, “ Dear Sir, I showed Sir Roger Tichborne your letter of the 8th instant, last night. He desires me to say he would most willingly go to your hotel, and see you and his cousins as you wish, but he feels he ought not to go so far without his doctor’s advice. He was not out of the house yesterday, and is advised to be very careful of his health during this trying weather. I assure you that Sir Roger is placed in a most painful position by your refusing to see his mamma. It is entirely owing to her solicitude and exertions that he had heard of his father’s death, and is now back in England. You may, therefore, judge what a pang it gave him to find her so treated, although she was in the house ready to receive you. She is naturally angry that her son did not adopt a similar course. I do sincerely hope that whatever family differences exist, they may be reconciled, and the plain truth be brought out. To help so far as I can an end so desirable for this ancient family, I propose that Lady Doughty, Sir Roger’s cousins, and myself, shall meet him at my house, which shall be freely placed at your disposal for the purpose, whenever you please to appoint. Sir Roger tells me that he will be most happy to see his Aunt Doughty there, or to call upon and thank her for

her past kindness, as soon as he is quite well, and also at your hotel if you are in town. Be good enough to fully understand that I shall not be present at any interview which may take place." I cannot quite understand that, because what Mr. Holmes proposed to him before was, that Lady Doughty, Sir Roger's cousins, and "myself should meet"—unless the word myself is a mistake for "yourself"—He continues, "In order that you may not be inconvenienced by not seeing him to-day, Sir Roger enables me to send you this note by Thomas Carter, who was his groom during the last fifteen months he was in England. You are quite at liberty to ask Carter any questions you think proper." In pursuance of this, after some further correspondence, a meeting took place between the defendant, his Aunt, Mrs. Nangle, and her daughter, Mr. Radcliffe, and Mrs. Townley, at the residence of Mr. Holmes at Croydon, on the 12th of March. Sir Percival Radcliffe and Mrs. Townley, and not Lady Doughty, but Mrs. and Miss Nangle, went down in the afternoon of that day; Lady Radcliffe was to have met them at the station; she had some engagement in town which detained her—as sometimes will happen—somewhat longer than she anticipated; and when she got to the station she found the train had gone, consequently she was not one of the party. When the party got down to Croydon Sir Percival deposited the ladies at Mr. Holmes's—Mr. Holmes was not there, and they were received by Mrs. Holmes—and started in a cab to go to the residence of the defendant to fetch him. The defendant got into the cab; and then Sir Percival tells us what passed as they were going from the defendant's house to Mr. Holmes's. "Q. Did you, as you went along, have some conversation with him?—Yes, he entered into conversation with me; I did not wish to enter into conversation with him, but he forced a conversation upon me. Q. Do you remember what that conversation was?—Yes, I do very clearly. Q. Tell us then what passed?—The first thing he said to me was, 'Have we ever met before?' or some such remark as that; and I said to him, 'You told me before you had never met me: As you do not recollect seeing me, I shall say nothing about it.' Then he went on to speak about Burton Constable and Talbot Constable, and I said to him, 'Where did you know Talbot Constable?' and he said, 'I have known him at Burton Constable, at Paris, and other places;' and he said, 'I gave Talbot Constable a black horse.' I said, 'You gave Talbot Constable a black horse? I never heard of it.' And he said, 'Well, perhaps it was a brown horse.' The next observation I made was, 'Where did you buy it?'—'Oh,' he said, 'I bought it from one of the farmers.' Then I said, 'What was the name of the farmer?'—'His name was Lambert,' he said. Then all of a sudden it flashed on my mind the incident that occurred at Burton Constable. I gave a black horse to Talbot Constable, and I

also bought a horse from Lambert, but the horse I gave to Talbot Constable was not the horse I bought from Lambert, but altogether a different one. Q. As far as you knew, he had never given a horse to him?—I had never heard of Roger doing it, and made myself sure. The LORD CHIEF JUSTICE: Do I understand you did it yourself?—I did it myself, and it occurred to me immediately—this is a most suspicious thing; this man is mistaking myself for Roger Tichborne; it occurred to me instantly. Mr. SERJT. PARRY: You yourself had given a horse to him?—I had given a horse to Talbot Constable. I gave a little black horse to him. Q. You had bought that same horse of Lambert, although you had another?—I had bought another from Lambert. I made further inquiries upon this matter afterwards; I do not know whether you will have it. The LORD CHIEF JUSTICE: No, we cannot.”

Mrs. Nangle gives us an account of what passed after the defendant came in. “Do you remember when he entered how you were sitting?—I was sitting in a little corner by the fire-place, quite away from the light. Q. Did you notice the defendant as he entered the room?—When he came into the room I so little thought it was Roger that I thought it was a servant coming to make up the fire. Q. You saw in him no trace of Roger?—Not the least. Q. After that, what was the first thing that occurred that you remember? Did Mr. Radcliffe make an observation?—Yes, Mr. Radcliffe said to the defendant, ‘Do you know this lady?’ and he replied in a sort of broken English way, ‘There are so many veils.’ Q. You were veiled at that time?—I was veiled. Q. Was your veil down?—Yes. Mr. HAWKINS: What did you do upon that?—I got up, took my veil off, and stood in front of the window so that the light could come right upon my face. I asked him if he knew me, but received no answer.”

Mrs. Townley says, “I remember perfectly well what took place. He did not know my aunt Mrs. Nangle or Miss Nangle. Q. Do you remember them lifting their veils up?—Yes, I remember my aunt pulling off her veil; she completely pulled off her veil and said, ‘Now look at me and see who I am?’ Q. Was that in full broad daylight?—Quite in broad daylight; and she turned towards the window. Q. What did he say or do?—He seemed very much confused, and I thought he took her for Mrs. Plowden. Q. You are not quite sure?—No; I am almost positive he took her for Mrs. Plowden. Q. That is your memory?—Yes. Q. He did not know her?—Not the least in the world.”

Then Sir Percival is asked, “The defendant came in, what did he do?—I first of all said to him, ‘Do you know that lady?’ (pointing to Mrs. Nangle).” Then a question is put in contradiction of the defendant. “Did you say that in a preemphatic and rude manner, or

anything of the kind?—Oh, dear, no, nothing of the kind: I said just as I say now: ‘Do you know that lady?’ as well as I can recollect they were the words I used. He made no answer at all, I think. I think then Mrs. Nangle came forward straight up to him—she had her veil down before, and she threw her veil up and came and stood straight in front of him, quite near him, and said to him, ‘Do you know me now?’ He looked staggered and shook his head, and I do not know what he said. Immediately afterwards Miss Nangle got up and said, ‘Do you know me?’ and I think Mrs. Nangle then said to her in French, ‘Speak to him in French.’ Q. Before she said that, did the defendant answer anything, or merely shake his head?—I cannot be quite certain about it. My conviction is that he did not answer anything. He seemed puzzled. It was exactly like a person who saw people that he had never seen before. That was the impression on my mind at any rate. Then she spoke to him in French.” Then Sir Percival says that, turning to Miss Nangle, he asked the defendant if he knew her, but he received no answer. Then Mrs. Nangle tells her daughter to speak to him in French, and she thereupon asked him if he spoke French, to which he answered, “Non, madame.” Miss Nangle continuing to speak to him in French, he exclaims, “This is not in the contract,” and puts an end to the interview. The scene was described very graphically indeed by that smart and clever young lady, Miss Nangle, whom you recollect no doubt. “Tell us as nearly as you can recollect in your own way what occurred; what did the defendant do or say, or any of you to him?—He looked very much afraid. He looked all round, especially at my mother, who was sitting in an angle of the room. My next feeling was a sort of uncontrollable laughter; however, I did not laugh. It was because it was so ridiculous, five people in the room, not one saying a word, looking at each other; then Mr. Radcliffe came forward and said, in the most courteous manner, to the claimant, pointing to my mother, ‘Do you know this lady?’ Q. Are you quite sure that he said that in a courteous and gentlemanly manner?—Oh, I am certain of it, most courteous. Q. Not in a peremptory or harsh tone?—No, indeed not; then he said in a sort of put-on French accent, ‘There are so many veils.’ She was veiled. Then, after that he said, ‘Do you know me?’ I believe it came in this order:—The LORD CHIEF JUSTICE: Did your mother keep her veils down?—I think she sat quite still a minute, and then he said, ‘Do you know me?’ and she said, ‘Not for what you represent yourself to be;’ and then she started off her chair, pulled off both her veils, turned round and faced the light, and then said, ‘Look at me and tell me who I am,’ and then he looked dreadfully frightened. ‘Oh,’ he said, ‘I don’t know, I don’t know,’ like that, in a frightened way. Mr. SERJT. PARRY: With a sort of French accent?—Oh, yes; that

was put on, you know. After that he could not make any sort of guess as to who she was, and then I went forward. I had a thin spotted veil on, which I of course threw up; it would have been dishonourable if I had not done so; and then I faced the light, and said, 'Look at me, and tell me who I am.' He could not make that out at all. Q. He could not make out who you were?—Not in the least. Q. What did he say or do, or what was his manner?—He kept backing, and said, 'I don't know, I don't know,' like that. Q. Backing from you?—Yes, he seemed afraid of me. Q. Were you advancing to him?—Oh, dear no; I was quite close enough. Q. Do you remember the next incident?—I was standing with my back to my mother, and was looking at him, and then she whispered to me, 'Speak French to him,' and so then I began. I always spoke French to Roger, and I thought the best thing to do to test him was to ask him, 'You speak French, do you not?' Q. What did he say to that?—He said, 'Non, madame,' in a most atrocious accent, I thought it myself. Q. He said, 'Non, madame'?—'Oui,'—that was quite a mistake, as he did not know French. Q. He said, 'Oui, madame'?—Yes. Q. You are quite certain of it?—Yes. I did not mind that; but I went on and said, in French, 'Well, let us speak French, as we always used to do in Paris, and tell me something of past times.' Q. You said all this to him in the French language?—Yes; and then he evidently did not understand a single word I uttered, and I thought it perfectly useless to go on. MR. JUSTICE MELLOR: Did he make no reply to it at all?—No, not a word. He looked more and more frightened. After that we both said in French, 'How is it you do not speak French?' Then he turned round, dreadfully angry, towards Mr. Radcliffe, and said, 'This is not in the contract.' Furious he was. MR. SERJT. PARRY: In what accent did he say that?—Oh, that was quite English. And then Mrs. Townley, rising to go, said, 'I think it much better that you should distinctly understand that I am convinced you are not my cousin Roger Tichborne; and I shall be obliged to inform my family that I consider you an impostor.' Sir Pereival says: "After Mrs. Townley had spoken—that is, after Mrs. Townley had said that he was an impostor—I said, 'And I do not believe you to be Roger Tichborne, because you stated to me facts in the cab which never did occur.' I may have also said, 'facts which occurred to myself:' I do not know; but I said, 'You have stated to me facts in the cab which never did occur.' Then he came towards me as if he was going to strike me; he came right up at me in this way (describing the manner of it). I stood perfectly still, in amazement—that sort of way. He thought better of it, and rushed out of the room, rushed across the passage, and locked himself in a room; I rushed after him, but he had locked the door before I arrived." That is quite borne out by the ladies,

especially by Miss Nangle, who says that the defendant went up in a menacing way towards Sir Percival, as if to commit an assault upon him; but, however, fortunately he stopped short of that.

Now this is the defendant's account of this interview. He is asked, "Did you in the cab introduce the conversation, and mention to Mr. Radcliffe that you had known Talbot Constable very well?—Yes.

Q. Did he ask you where you had known him, and did you say at Burton Constable and elsewhere?—Yes, very probably I did; I do not remember the conversation, but that is what I should have answered. *Q.* I do not ask the words, but is that the purport?—

That is true, and therefore I should imagine it is what I said.

Q. Did Mr. Radcliffe ask you to mention some other place besides Burton Constable where you had seen Sir Talbot?—He did not.

Q. Did he ask you how long you had stayed at Burton Constable when you were there?—I do not remember him doing so. *Q.* Did you say six weeks?—That would have been about correct. *Q.* Did you say to him, 'Did I know you there?' meaning Mr. Radcliffe?—

No, but he told me he was there, and I told him I did not believe him. *Q.* Did he say, 'You do not remember me, and cannot tell me anything about it?'—He told me he was there at the time, and

I looked to him, and said, 'Well, if you was, I never saw you there.'

Q. That is the truth, is it?—That is the truth. *Q.* Do you mean that you were there, and he was not?—I mean he was not there during the time I was there, or otherwise I never saw him, and it is a strange thing that several other people who were there do not remember him"—Now Sir Percival says he had passed a fortnight at Burton Constable at the time Roger came there on a visit from Stonyhurst, and that they had actually taken a part in a play together, acting the part, if I remember rightly, of two French students—The cross-examination goes on: "Now, when you came to Mr. Holmes's were you shown into a room, or did you go into a room and find some ladies there?—I did. *Q.* Was Mrs. Nangle—she would be your aunt, would not she?—Yes. *Q.* Was Mrs. Nangle sitting with her back to the window, and her veil down?—Yes, two or three veils, I think, by the look of them. *Q.* And Miss Nangle was there, was she?—Yes. *Q.* And Mrs. Townley?—And Mrs. Townley. *Q.* Now, did Mr. Radcliffe say, 'Do not you know that lady?' pointing to Mrs. Nangle.—No, he did not; that was not his words. *Q.* To that effect?—There is a great deal in the effect of words, you know. *Q.* I do not ask you, and I do not care what language: did he ask you if you knew that person?—No; he said, speaking in a loud and peremptory tone, 'Now, sir, who is that lady in that chair?' Just like that. *Q.* Did you say, looking at Mrs. Nangle, 'Do you know me? Who am I?'—No, I did not: I said, 'Considering I cannot see that lady, how can I tell who she

is?' Q. Did Mrs. Nangle say, 'I do not know you, certainly, for what you represent yourself to be?'—Mrs. Nangle never said anything of the kind. Q. And did you then say, 'There are so many veils on?'—No; I immediately said, 'How can I tell, considering I cannot see her face.' Q. Did Mrs. Nangle then turn up her veil or veils (I will not struggle with you as to whether there was one or more), and walk up to you?—Certainly not. Q. And face the light, and say, 'Now, now look at me, and tell me who I am?'—Certainly not; she never rose from her chair at all. Q. Never mind about that—But she would have to do so before she could walk. Q. Did she lift her veil up?—She did at my request. Q. And say, 'Now look at me, and tell me who I am?'—No, she did not. Q. And did you say, 'I do not know, I do not know, I do not know, two or three times over?'—I said nothing of the kind. Q. Did you say anything?—I did, a good deal; I was told by Mr. Radcliffe, when I was going there, that I was going to see Lady Doughty and my cousin Katharine. When I got there, I found a person crouched down in the chair, trying to make herself as low as she possibly could, and very thickly veiled. Mr. Radcliffe said, 'Who is the person in the chair?' and I said, 'How can I tell when I cannot see her face?' She raised her veil at my request, and I said, 'How dare you tell me that I came here to meet Kate Doughty!' and I never looked at the person at all, but got very angry; and on leaving the room, Mrs. Townley stopped to address me, when I went out. Q. I am coming to that?—Yes, but perhaps I had better tell you at once. The ATTORNEY-GENERAL: I would rather put it in my own way, and you shall put it in yours afterwards. Did Miss Nangle put her veil up, and say, 'Look at me, and tell me who I am?'—I did not take any notice of Miss Nangle whatever; I was so much out of temper, considering they tried to impose on me, that I did not look at anyone. Q. And did you say, 'I do not know, I do not know,' twice over?—No, I never looked at Miss Nangle; besides, if they wanted me to recognize them, what did they come thickly veiled for? That is what I want to know. Q. They threw them up according to my suggestion, and I think according to yours?—If you ask me whether I said it was my aunt Nangle, I do not know, because I do not think my aunt could be guilty to lend herself to such a purpose. The LORD CHIEF JUSTICE: As I caught it, Mrs. Nangle, and afterwards Miss Nangle, put their veils up? The SOLICITOR-GENERAL: Yes. The WITNESS: I cannot speak as to Miss Nangle, for I did not take notice of her, seeing it was not my cousin Katharine, though, of course, she is my cousin Katharine, but not the other, Miss Doughty, as represented. Q. You say you saw it was Mrs. Nangle?—I told you it was Mrs. Nangle, for I have heard since. I told you before, when I knew it was not Lady Doughty

I never even looked at her: I knew it was not my aunt Doughty, and left the room. *Q.* When she put up her veil, when you said, how can I tell, because there are so many veils on, and she put up her veil, did you then say it was your aunt Nangle?—No, I did not; and I tell you I did not know who it was, for the best of all reasons—when I saw I was imposed on, I never looked. *Q.* But I should have thought that you must have looked to know who it was?—I looked quite sufficient to know it was not Lady Doughty. *Q.* But not sufficient to know it was Mrs. Nangle?—No; I never dreamt that she would lend herself to saying she was one aunt instead of another. *Q.* All you know is, it was not that aunt you were going to see?—The aunt it was represented by Mr. Radcliffe I was going to see. *Q.* Was she at all like a person you had seen?—I tell you, I do not know: I did not even look at the person. It may have been Mrs. Nangle, for aught I know. *Q.* You must have looked, to know it was not Lady Doughty?—Certainly. *Q.* Seeing that it was not Lady Doughty, did you look to see who it was?—No. *Q.* It was one aunt instead of another; is that it?—It was so represented to me. *Q.* However, that is what you did not see at the time?—No, I did not. *Q.* You say you did not pay the smallest attention to Miss Nangle?—No, I did not. *Q.* Did Mrs. Nangle say to Miss Nangle, ‘Speak French to him,’ upon which Miss Nangle began to speak French to you?—I think not. *Q.* Will you swear not?—I tell you I did not take notice of Miss Nangle, or anything she said, if she did say anything. *Q.* Did she say to you, ‘*Vous parlez français, n’est-ce pas?*’ and you said, ‘*Oui, madame,*’ and she went on with a longer French sentence, which I do not presume to read?—If you ask me whether I did that, I swear I did not. *Q.* Did she say a long French sentence?—I do not say she did not say anything. *Q.* A longish sentence in French to you?—I tell you I did not take notice of her. *Q.* But did you hear her speak French to you?—I did not. *Q.* And did she say after that a long French sentence, ‘*Eh bien ! nous allons parler français, comme nous faisons toujours dans les temps passés?*’ and did you turn to Mr. Radcliffe, and say, ‘This is not in the contract; this is not in the contract’?—Contract? No. *Q.* That you swear?—That I will swear upon my oath; there was no such word escaped me. *Q.* Did you say a word of French to either of them?—No, not a word. *Q.* Did they say any French to you?—As I tell you, I do not know whether Mrs. Nangle spoke to me or not. I have no recollection. Our visit certainly did not last a minute and a half. The moment I saw I was imposed on, I went out of the room, and on going out Mrs. Townley addressed me, and I said, ‘Lucy, you will be sorry, mind, for what you have done, yet,’ and I passed out of the room, and there was no further conversation whatever. *Q.* We will leave the conversation with Mrs. Townley

for a moment, which you will probably deny?—I do not think you have a right to say, ‘which I will probably deny’: I shall not deny it if it is true. Q. Did Miss Nangle say to you in French, ‘Come, tell me something of the past—*Racontez moi quelque chose du passé*’?—I tell you I did not hear her speak at all. Q. And did you a second time say, ‘This is not in the contract; this is not in the contract’?—What contract? Q. And did Miss Nangle say, ‘*Comment vous ne parlez donc pas français*’?—I tell you I did not hear it at all: In the first place, I was not in the room a sufficient time for the conversation you speak of to take place. Q. Did you go on and say again about the contract being broken?—I never mentioned about the contract at all.” Then a series of questions are put with regard to the conversation with Mrs. Townley, as to which the Solicitor-General, who was cross-examining, had clearly got wrong, because these matters on which he was cross-examining the defendant were matters which, if they occurred at all, occurred at the first interview, and not at the second, about which he was cross-examining on this occasion. In the multiplicity of facts in this case, it is in the nature of things that mistakes of this nature should occur. “Q. Then as Mrs. Townley was going out, you told her, you say, she would be sorry for it: I believe she said she thought you an impostor, and it would be her duty to tell her friends?—No, she did not; all she said was, ‘I knew my cousin Roger very well, and you are not him.’ I said, ‘You will be sorry for this,’ and Mr. Radcliffe spoke and said, ‘I knew Roger very well, and you are not him,’ and I said, ‘All I can say is, you are no gentleman.’ I think it was a very lucky job for him that there were ladies in the room. Q. No doubt he was very much indebted to you?—No, very much indebted to the ladies, not to me. Q. Well, that is safe?—Yes, perfectly safe for him there. Q. Do you mean to say Mrs. Townley did not say she was sorry to say you were an impostor, and she should feel it her duty to tell her friends so?—No. Q. Do I understand you Mr. Radcliffe told you you were going to see Lady Doughty?—Yes. Q. That you swear?—And her daughter, that I positively swear. Q. That he told you?—That he told me: he not only told me, but there are his letters to prove it: Read the correspondence between himself and my attorney. In the first place he wrote to say he could not come, and asked for another appointment.” The result is that the defendant admits that he did not recognize Mrs. Nangle, but he accounts for that by saying, that expecting to see Lady Doughty, and finding it was not her, he did not look to see who it was. Now, I think there can be no doubt that he had been led to expect that he was to meet Lady Doughty; whether he would have known Lady Doughty from Mrs. Nangle must depend on one or two things, either on his being Roger, or on his having had some opportunity of

seeing some likeness of Lady Doughty, or having had some description of her which would enable him to distinguish between her and the other lady, Mrs. Nangle. I have no doubt he did go to that meeting expecting to meet Lady Doughty, and I think the conversation which passed between him and Sir Percival in the cab was calculated to keep up that notion. Was it that Lady Doughty not being able to go, Mrs. Nangle was substituted? or was it a stratagem they resorted to in order to see whether he would accept her as Lady Doughty, which of course would have been completely fatal to him? I do not know. No question was asked about it; but it is quite clear that, having taken down Mrs. Nangle in place of Lady Doughty, Sir Percival, when in the cab, did not undeceive him, because this is what he said about it. He is asked, "Did you while you were in the cab, or before, or when you invited him to accompany you to Sydenham Road, ever say you were going to take him to see Lady Doughty?—I told him I was going to take him to see his aunt. Q. Did you mention Lady Doughty's name?—I purposely omitted the name of Lady Doughty, because I put the name of 'Aunt.' Mrs. Nangle was his aunt. I did not say 'Mrs. Nangle,' but 'Aunt' purposely. Q. Did you say whether you were going to meet her and anybody else, or simply her?—I forget; I am quite positive I said his aunt, because I purposely said his aunt. Of course I did not give the name." It is quite clear that he did not mention Mrs. Nangle's name. The defendant says Sir Percival told him distinctly he was going to see Lady Doughty. Sir Percival does not admit that, but says he told him he was going to see his aunt; but I think Sir Percival must have been quite aware, the interview being on the understanding that the defendant was to see Lady Doughty and the then Mrs. Radcliffe, and also Sir Percival and Mrs. Townley, that the defendant would naturally interpret the term "aunt"—an ambiguous term, no doubt, where you have more than one—by what had gone before, and of course would imagine that he was going to see Lady Doughty. I must say I think it would have been better if no concealment about that matter had been practised; if it was in fact a stratagem, so much the stronger is my observation. If it was that Lady Doughty could not, or would not, go down, and Mrs. Nangle went in her place, I cannot help thinking it would have been much better if no deception of any sort had been practised—not that it was necessary to tell him who Mrs. Nangle was—if Sir Percival had said, "Lady Doughty cannot come, I have brought down another lady who is a relation of yours; I will not tell you who she is; when you see her, you can tell me; and if you know who she is, that will be satisfactory, while if you do not it will have the opposite effect." That would have been much better. I have a dislike to stratagem or attempts of this sort, and I think

they are very much better avoided. Of course if the defendant had said who it was, it would have been a false move on their part. As it was it gave him the opportunity of saying, "You tried to practise a trick upon me; I resented that, and instead of prolonging the interview, I cut it short in consequence." Nevertheless, the question still remains, Should he have known Mrs. Nangle? Mrs. Nangle was Roger's aunt by blood; Lady Doughty was his aunt by marriage only; and he had known Mrs. Nangle long before Lady Doughty, and Roger had seen her quite as lately as he saw Lady Doughty; for the Nangles were staying at Tichborne on the occasion of the last visit Roger paid to Tichborne before he finally quitted this country. Mrs. and Miss Nangle were staying in the house at the time; he was therefore as familiar with Mrs. Nangle's personal appearance as he could well be with the appearance of any one. Now here was Mrs. Nangle, and according to the evidence of all present she raised her veil, either at his instance—or, as she says, by her own spontaneous act—and rose and faced him in the light, and said, "Now tell me who I am?" and he looked at her and could not tell. His account is, that as soon as by the first glance he ascertained it was not Lady Doughty who was then present, he turned away and would have nothing more to say to any of them; except that some words passed as he went out between him and Mrs. Townley and Sir Percival Radcliffe, towards whom, according to the latter, he advanced in a menacing and insulting manner. The defendant says he merely told him he was no gentleman, and that with the exception of this conversation, he went out and never looked at any of them. He denies that Miss Nangle spoke to him in French, or that he took the slightest notice of Miss Nangle. Upon that you must form your own judgment. If your opinion is that these witnesses are telling you the truth, and that the defendant had, as Mrs. Nangle says he had, full opportunity of looking her in the face, when she had her veil up and was standing in the light, the light falling on her face, and that he did not know Mrs. Nangle, and had not the most distant idea who she was, then, of course, that is a very strong fact against the defendant, that he should not have recognised Roger's own aunt whom Roger had known from childhood while living so many years in Paris; who was resident at Tichborne from time to time afterwards, and whom, as I say, he saw as lately as his last visit to Tichborne. If you think that, as he says, he had not an opportunity of seeing her, or did not choose to look at her, or avail himself of that opportunity, it falls to the ground. If you think he had the opportunity, that he used the opportunity, that he looked at her, saw her, and did not recognise her, certainly it is very strong.

On the result of this interview Mr. Radcliffe wrote to Mr. Holmes,

“ March 12th, 1867. Dear Sir,—After the second letter received from you to-day (by which I perceived I omitted naming Wednesday) we thought it better to go at once to Croydon. We had an interview with your client, and are all thoroughly convinced he is not Roger Tichborne, and this not only because we failed to recognise Roger Tichborne, but because he evidently did not recognise his nearest relations. I beg again to thank Mrs. Holmes for her courtesy to the ladies at her house. Yours truly, J. P. RADCLIFFE.” Mr. Holmes replies, certainly not in the tone of courtesy with which Sir Percival Radcliffe had written; he writes a letter in his usual arrogant and offensive style: “The way in which you and the three ladies who were with you yesterday behaved for the very few moments Sir Roger Tichborne condescended to see you”—fancy this gentleman taking on himself to write to Mr. Radcliffe, to say the least of it his equal, in such terms—“condescended to see you, was an entire breach of the arrangement we made at Alresford, and could only result in his withdrawing himself. It is certain that if Sir Roger had been treated by you and your party with even common civility, the litigation which must ensue would have been entirely avoided. However, neither my client nor myself can now be blamed. You did wrong in going to my house without a previous appointment, or in taking any one there respecting whom we had not arranged. My wife was surprised that neither of the three ladies favoured her with their names. Their remarks, while you were going to fetch Sir Roger, were altogether unjustifiable, for they had not seen him. I am very sorry indeed that your attempted surprise upon Sir Roger, and manner of treating, were as unfair as the conduct pursued towards him by his family since he arrived in England, but the same spirit evidently animates all those whose interest it is that he should not succeed. It is, however, a great satisfaction for Sir Roger to know that the Court will disapprove the conduct complained of, and that, in the end, his rights, which are founded on truth, must prevail.” Well, there is certainly one thing to be regretted, and that is, that this interview took place otherwise than according to the strictest regularity. If an appointment was to be made, and they went down without one, it is to be regretted; because it gave Mr. Holmes and his client cause to take exception to anything that passed. And I regret also that Mr. Holmes should, from the beginning, have declined to be present at the interview. It would have been very much better if the defendant had had the advantage of the presence of some one who could control the statements made afterwards, and contradict them if they were not according to the truth. Therefore, the effect of this interview must be considered as subject to the observation, that perhaps the defendant was not upon the whole as fairly dealt with as he might have been.

We are now in the month of March, and I will complete the occur-

rences of that month by reading to you a letter written by the defendant to Mr. Rous on the 31st of the month, but which is not, perhaps, of any great importance. "Dear Rous,—We received last night"—there the word "received" is for once spelt right, I believe it is the only instance—"the Hamper you so kindly sent. And for which we are very thankful for I do not know when I shall start for Alresford. But I propose to do so as soon as Mamma returns from Winchester. So I shall come and stay a week or so this time. Lady Tichborne beg to be remembered to you and Mrs. Rous. Let me know whether you think it will be best to bring a Horse with me or not I find there are two persons who have got judgments against me for Bills I drew in Australia. I do not know if they intend to arrest me or not. I tell them if they do they will be longer without their money. But I am affraid"—this is a word he uniformly spells with two "f's"—"But I am affraid the other side have got hold of them. I am affraid I shall not be able to get money sufficient to settle them as I have only Mamma who will endorse. I can get a thousand pound if I give a Bond for two twelve month after I get"—Then comes a word which is a perpetual stumbling-block, and that is the word "possession;" in this particular instance he spells the word "prosessionian"—"after I get prosessionian. But I do not wish to throw a thousand away like that. But I must try and manage somehow Hoping Mrs. Rous and family are quite well and that I shall soon have the pleasure of seeing you. I remain Dear Rous, Yours truly R. C. D. TICHBORNE." Next comes a letter to Mr. Hopkins, which affects the testimony of Mr. Bulpett; it is of the 6th of March. "My Dear Friend Hopkins I received your letter the other day I should have answered it before if I had not been so ill i got out a little while yesterday for the first time since thursday but to day it snowing so hard"—there is the unfortunate auxiliary omitted—"that I cannot go out at all I hope i shall soon be able to come down as I feel almost dead shut up in the House so long I received a letter from Bulpet and Hall this morning telling me he had placed five hundred to my credit at Alresford this very much surprise"—written with two "p's" and without the "r"—"me has i did not expect or want it But I suppose by that the Winchesters are begining to feel uncomfortable I hope you will forgive me for not writing offener"—written with a second "f" instead of "t"—"I have not forgot the Vermont for Mrs. Hopkins I will bring it down with me when I come please remember me kindly to Mrs. Hopkins. I hope she enjoying good health. Mamma begs to be remembered I think mamma will come down to Winchester soon McCann my old valet has been with me this two day he is going home to morrow there are several of my brother officers are to call on me this week Carter my old groom got discharged for coming to see me so i employed him myself again He got a letter yesterday when

in London praying that he would not have any think to do with me has so many would be ruined by it Carter says he told them that if they were all to be hung He would not tell a lie for them. I hope my dear friend soon to have the pleasure of seeing you."

We now get to the month of April, and there comes a letter, which, if it bears the signification Mr. Hawkins puts upon it—and I am bound to say I do not see why it should not—is certainly of very great importance, because it would seem to furnish a clue to some of the knowledge exhibited by the defendant with regard to important circumstances in Roger's career; it is to Lady Tichborne. "20th April My dear Mamma I refrained from writing untill I had seen the Dr. He says I am a great deal better. But must not leave my bed for several days yet. I Hope my dear mamma you have found some of the letters"—What letters? What letters was he anxious his mother should find some of? There were many letters, you know, written by Roger to his father and mother. Many of those letters had reference to Roger's expedition to South America, and to the different things that happened to him, or took place in his excursions or wanderings in that country; and upon those subjects the defendant afterwards exhibited a considerable amount of knowledge. Was that knowledge the production of his own memory, or was it derived from the perusal of those letters? No explanation of the letter in question has been given. But then the defendant's mouth is closed. He cannot give us any explanation of it; therefore we must not press it against him further than is reasonable or fair. The letter was first found for this trial, and therefore there is no explanation of it from the defendant. But it is evident that at this time, the month of April, when things were progressing, and he was about to take initiatory steps for the purpose of obtaining the estates, there were some letters which the defendant here exhibits anxiety that his mother should find, probably in order that he might have the opportunity of seeing what were the contents of them. If he did not get them then, they would of course afterwards come into his hands when he took possession of her papers after her death. The rest of this letter is not of importance. "Do not my dear mamma encourage that Cook. he is trying to do me all the harm he can in London. Surely my dear mamma. you will not pay for a mans keep who is an enemy of mine. Mary and Agnes are quite well. and longing to see you back again. I feel very lonely having to lay in bed so long. I Hope your interview with Mr. Tucker as been favorable. You asked me for the Address of the Lawyers that hold the Bill. I do not know, as I gave it to Mr. Holmes. and I have not seen Mr. Holmes since to ask him. but I will let you know if you do not return before Monday. Hoping my dear mamma soon to see you I remain your affectionate Son R. C. D. Tichborne."

On the 29th of April he writes to Lady Tichborne again: "My Dear Mamma, I have sent Carter up to London. so he will call and leave you this note. I have sent both Horses to be Sold. My reason for doing so is. that I knew they would be seized for Cubitt Bill."—Cubitt had put that bill into circulation, and the defendant had been sued on it—"The sheriff officer was down here on Saturday night late. They thought the House and Furniture belonged to me, I sent for Mr. Holmes and he came and sent them away. He showed them the receipt you received from Miss Lawerance. When they had seen the receipt was in your name they went away. The parties holding the Bill. Has promised not to molest me. as it would be against their own"—now here, again, is a word which the defendant cannot get right, and that is the word "interest"—"as it would be against their own entrets So I thought it would be best to sell them at once. If I had sent one up to you Mama dear. they would sure to have found out where he had gone. and I should not like to have had one seized in London. it would have made such talk. You see Mama dear if I hire Horses when I want them they cannot take them away. I will tell you all the particulars to morrow when I see you. I hope my dear Mamma you are better than you ware. I am a great deal better now that it busted."—a remarkable piece of English, certainly—"Of cause I am in less pain now. Mary and little Agnes are quite well. and sends their love to you my dear Mama. Hoping to see to morrow. I am my dear Mama, your affectionate Son, R. C. D. TICHBORNE." Here we have in sixteen lines, no less than ten mistakes, and the recurrence of "dear mamma" no less than six times.

The next letter is one of the "1st May /67 My Dear Mama I received your note from Joseph. and am so glad to hear you are quite well. We have seen the young woman you sent. and I think she will suit very well. so I think you had better engage her Mama dear. I should like to get somebody at once. before Mary is Confined. My dear Mama. I am glad to tell you Dr. Southerland says I am a great deal better. So you see. Mama dear I shall soon be well. I have sent you a letter I received from Mr. Holmes and likewise the agreement for the House for you to sign. it better for to take the house in your name. for then they cannot molest me. You must understand Mama. that in Mr. Bulpett proposal. you are not required to pay one shilling. as the first year"—now we get to that uncomfortable word again, "interest," and here it assumes a different form—"the first year entress and he will be paid out of the five thousand. But I should advise you Mama dear to show it to Mr. Norris. the entress will only be five per cent. and I shall place one thousand in your Bank to your credit which will secure you for four years. I wish you would see Mr. Norris on this subject. or Mr. Tucker. The

weather looks as if it was agoing to be fine.”—He constantly writes “agoing” for “going”—“tell Juggins he as not paid Ebbat the 15. 3d. you gave him to pay last week. Mary and little Agnes joins me in Love to you Mamma and I remain your affectionate Son R. C. D. TICHBORNE.” Here there are, in seventeen lines, no less than seven “mamas.”

Gentlemen, the next letter is from the defendant to Lady Tichborne dated May 11th. At this time the defendant had transferred his residence to another part of Croydon, and his letters are dated from 2, Wellesley Villas, Wellesley Road: “My dear Mama I did not write yesterday. Because I was not very well. and could not spare Carter. I am sorry to say mamma. that Mary is very unwell to-day and cannot leave her bed. Little Agnes was unwell yesterday. But she appears a good deal better to-day. I saw Mr. Holmes. last night. He says he will be ready to file the Bills on Tuesday. But he wants five hundred pounds. before he can file them. I have just received a Bill from Hamman and Purrott. Where we rent the linen and plate from. I have enclosed it. for you to look at. it very heavy. I have got about thirty pounds mama dear But that you see mama dear is not sufficient. it allmost drives me mad. to think that I cannot pay my way. without taking your money. I paid a man named Bance. yesterday £7 19s. 8d. which I did not know was owing. I will enclose it. that you may see what it was for I think Mr. Blackman will have the Horses sold in a day or two. if he does of course I can pay these Bills at once. I hope mama dear you will let me know how you are. and if you have heard from Mr. Tucker Its a week mama since you came to see me. and it appears so long. But I know it makes you ill to come. so I do not like to ask you to come offener. Next Tuesday”—here we have instances of what I referred to, the omission of the “s”—“Next Tuesday is mary Birth day and Mr. Long Father is coming to dine with us. so do try and come mama dear You know mama dear. it of great importance that these gentlemen come to see me. Because it gets all over Hampshire. hoping to receive a few lines from you”—the word “few” there is spelt right—“I remain your affectionate Son. R. C. D. TICHBORNE.”—the word “Son” being written in the same line with the signature—“Mary and Agnes sends their kind Love to you mama dear.”

The next letter is of “May 19th/67. My Dear Mamma I have great pleasure in telling you that I have seen Mr. Biddup”—he means Mr. Biddulph—“He called with Mr. Tucker and Norris yesterday. and remained for about two hours. the Meeting was very pleasant, Mr. Norris said he thought you was not looking very well when he last seen you. I hope mama dear you will let me know how you are. Little Agnes is a great deal better. and will soon be able

to come to you. I have caught a nasty Cold which as taken away my Voice. so I have to remain in bed all day to-day. Mary is quite well to-day except a tooth ake. If you are quite well you must write and tell me all the news. But if you are not do not truble to write a long letter. for it will fatigue you. Mary and Agnes joins me mamma dear in kind Love to you And I remain your affectionate Son R. C. D. TICHBORNE."—the word "Son," in the last line, as in the foregoing letter. Then on the 22nd May, '67: "My Dear Mama I spoke to Mr. Holmes about you agoing to call on him to-day. And he says he will not be at home. This is the Derby day and they have all gone to the races. It was very kind of you to send me the oranges and sparrowgrass"—We had a discussion on the spelling of "sparrowgrass," and it turned out there was authority for this form of it—"Mary and the baby pass a very good night and are quite well as also little Agnes. Agnes seems to be very fond of the baby. as she crys"—which would be the regular form of the third person present of the verb "to cry," but it is an irregular verb, and that is not the way to write it—"as she crys to go and see it every time she go up stairs. I receved a letter from Talbot constable yestrday. I hope he does not come until I am well. it make me so ill to be talking so much. I am not very well to day. so I am keeping my Bed. and I do not entend to get up to day to see anybody. the Dr. as not been to day. yet He told me yesterday morning to go to bed and put a poltice on. But i did not put it on until last night. when I went to bed. so I think that make me worse to-day. But I will soon be all right Mama dear. it only a little inflamed and will soon go away if I keep quite."—for quiet—"Will you my dear Mama answer talbot letter for me. I don't lick"—for like—"the way he writes I think he been tampered with by the other partis. We must be very careful my dear Mama. Now my Case is so strong. If he was to come up to be Godfather to my Son. and then say he did not know me it would injure my case very much"—injure spelt with a "g"—"I will leave all to you my dear Mama only be careful. Mary and little Agnes joins me my dear Mama in kind love to you. Your affectionate Son R. C. D. TICHBORNE." That is a remarkable letter in one respect. There are twenty-one printed lines, and there are no less than eleven mis-spellings, and seven mistakes of grammar—eighteen mistakes in twenty-one lines—and no less than six "my dear mammas" in the course of it.

The next letter is of May the 23rd, to Lady Tichborne. "I receved your kind letter last night. I am very sorry I forgot Talbot letter. But I was so unwell I could think of nothink. I am a great better to day thank God. As I hope this letter will find you the same."—That is an expression that certainly never occurs in any of Roger Tichborne's letters before he left this country—"I receved a letter for you Mama dear And it had a black Seal and I thought it was

from Talbot. so I oppen it”—a strange way of writing “opened”—“I did not read it when I look at the signature. I expect Mr. Bulpett here to night with Mr. Holmes I hope my dear Mama that I shall see you on saturday if it a fine day. But if it not. do not come out in the wet. Mary and the little Boy are doing quite well. and poor little Agnes as been playing with me all day. She misses her Mama very much. Let me know Mama dear if you have heard from Mr. Tucker and when he coming here And I would likewise like to know what Mr. Norris says about it. I think my dear Mama. I would not bother with them any more. as I can get the money on those terms much quicker. Hoping soon to see you. my dear Mama I Remain your Affectionate Son R. C. D. TICHBORNE.” Here again in fifteen lines there are no less than five mis-spellings, and six mistakes of grammar, while “dear mamma” occurs six times in the fifteen lines.

He writes to Rous on the 23rd May. “I received your kind letter and thank you for your kind wishes Lady Tichborne and the boy are doing very well. And begs to be remembered to Mrs. Rous and yourself. We are coming down to Alresford as soon as Mary is able to go. The Dr. intends to keep me in for ten days longer. so I hope to be quite well by that time. I got very frightened yesterday morning. I thought I was agoing a hunting in another country. But I am a good deal better to day. Hoping my dear friends you are all well—” and so forth. He adds, “My dear Friend. We have received a very valuable letter. from Australia But Mr. Holmes don’t wish to let any one know it. But Bulpett. so don’t say i told you. It an account of my arrival in Melbourne in fifty four. It was sent by my Banker Mr. Captive”—that must mean Cottee—“A. J. S. Bank, Wagga Wagga He thought I might want it.” On May the 27th he writes:—“My Dear Mamma, I have just received your kind letter. with Mr. Tucker’s enclosed”—He was a money-lender from whom they hoped to obtain money—“I think my dear Mama it will be the best to give Mr. Tucker the 50 per cent on conditions that he pays the money the day after the Bill the filed. I am certain we shall not get it cheaper. as for Mr. Yates I do not want anythink to do with him. it no use playing with Mr. Tucker. the best way will be to tell him at once we will give the 50 per cent. I would very much like to see him. if I do not succeed with Mr. Tucker I propose to come to London on Wednesday. and go ware I know I can get it. But still I would have to give more than 50 per cent. I must get it some ware for I have not a pound. And Hammond and perrott. came this morning and ask me for a Cheque. and of cause I could not give him one. which makes me look very little. and feel very Miserable. sometimes I allmost wish I was out of the World.”—“Allmost” and “allways” are always spelt with two l’s—“do not lose any opportunity with

Mr. Tucker as I shall only have to give more. I am sorry that I shaul cause you so much anxiety about my affairs. Had I have known it"—you cannot well have a more ungrammatical expression than that—"Had I have known it before I left Australia I would have never wrote or come home to have cause you so much truble. and to have been such a drag on your purse. however I hope to be able to repay you all back again. and see you happy and comfortable at Upton. I will send you a couple of photographt of Upton. the North and South Front. My dear you never say how you are when you write. therefore I never know only by asking the servants. Little Agnes and the Boy are quite well. and Mary joins me in kind Love to you. And I remain my dear Mamma your affectionate Son R. C. D. TICHBORNE." Now I protest I am puzzled to pronounce the next word. "I regerestered the boy this morning Under the name of Roger Joseph Doughty according I think as you desired it. R. C. D. T. Do not worrat your self my dear Mama We shall be all happy yet." That is another word; the word "worry," either as a verb or as a noun, is always written by the defendant "worrit" or "worrat." That is common, I believe, in a certain uneducated class, but it certainly is wholly inconsistent with the notion of any schooling at all. On the 31st of the month he writes, "My Dear Mama You will think it very strange that I did not write to you yesterday. But I gave Bogle and Carter leave to go and see the races. And several persons called. that the day passed away before I knew it was gone. My dear Mama. Mr. Tucker called to see me last night. But did not stay long. He was saying that he was coming down on Saturday. with you to have baby christened. You must remember my dear Mama that Mr. Tucker is a protestant and cannot be a sponsor. Besides my dear Mama. I find he is not so respectable as I should wish. And a nother"—the "a" entirely distinct from "nother" as though "nother" were a word by itself—"and a nother think my dear Mama it would be wrong to make Talbot Godfather until I see him. suppose when he came he did not remember me. And I know Radcliffe as been continually writing to him about me. It would be very serious, and injure"—there the word "injure" is written right—"my case very much. My dear Mama, the Cook case is settled. So do not worrat yourself about that. I hope Mama dear you will come on Saturday to see me. Although I should like to leave the christening for some time yet. There is nothing to fear as they are both so Healthy. Mr. Baigent is here. and I am so glad. as I was so lonely before he beg to be remembered to you, my dear Mama. Do not forget to let me know who that Captain Barstow was. Mary and Baby and little Agnes are quite well. and joines me in love to you my dear Mama. I have not said anything to Mary about the christening. But I have very strong reasons for not having it done

on Saturday. which I cannot commit to paper. But which I will tell you all about when we are alone. God Bless you my dear Mamma from your Affectionate Son, R. C. D. TICHBORNE. Dear little Agnes as just gave me a kiss to send to you." There the number of "dear mammas" is in profusion. There are ten of them in twenty-two lines, besides eleven mistakes.

I may here observe, that in the letters to the Dowager Lady Tichborne the number of "dear mammas," and "mammas," is, on the average, about one in every three lines. That is a moderate computation. It is impossible to read these letters, with the eternal repetition of "dear mamma" from a grown man, without its having the effect of raising a smile, but that is all the effect it ought to have, with this important exception, that while it is perfectly characteristic of the defendant, the total absence of the sort is equally characteristic of the undoubted Roger. As I pointed out some time ago, with Roger it is "My dear mother," and he writes in a simple style, and there is no introduction of religion in an ordinary letter; and he ends his letter with "Your affectionate son," just as other people do. Some people, it is true, put in "My dear father," or "My dear mother," "My dear uncle," or "My dear aunt," occasionally interspersed amongst the sentences of the letter, but Roger never did that. But then the learned counsel for the defendant turns to the paper given to Miss Doughty. There, undoubtedly, he uses the expression "My dearest Kate," again and again; but then it must be borne in mind that he was writing under the influence of very powerful, passionate emotion, and under those circumstances I can quite understand the repetition of a phrase of that kind which in an ordinary commonplace letter a person would not use. Nowhere, either in the letters to Lady Doughty or to his mother—the latter the more important, of course, of the two—in comparison with the letters written by the defendant to his alleged mother—is there anything of the kind. Therefore, although unimportant in itself, it is not unimportant in the comparison of the writing of the two persons.

The next month, June, begins with a letter of the 8th, again to Lady Tichborne. "June 8th/67. My dear Mamma I received your kind letter. Mary is delighted with the Canary. and much more so. that you should think of her. I thought I spoke of receiving in your letter the other day. the £18 Cheque. But I suppose I forgot it. Mr. Holmes told me that he had seen Mr. Porter. and told him to call on me. But Mr. porter has not call yet. I remained at Home all day my dear Mama on purpose to see you if you came. Of cause I shall not go out on Monday until you come I heard my dear Mama the other day. where the Watch of my poor dear Brother Alfreds was. So I sent to the man. who knew ware it was and told him if it really was my Brothers Alfreds Watch I would

give him a pound to get it for me. He got it and sent it up to me by post this morning. Its a buitfull"—a strange way of spelling that word—"small Gold Watch, with his Monagram let in with Enamel at the back, it also as a seeret back for a minature, it winds up by the Handle, and was made by Harry Enamel. I think there is no doubt, but that it was poor Alfreds watch. I would send it up to you by Joseph only I am affraid he might lose it. I did not expect the person to send it up, and its very awkward for me, has I have no money to send him what he gave for it. But I will borrow the money of Mr. Holmes to night when he comes it only twenty five pounds and one pound for himself. Of course my dear Mama the Watch is for you if you wish to have it, when you come down. And I will show you how to open it and wind it up and ware to find the seeret spring. I hope my dear Mama you are better, you appeared to me the other evening as if you ware still suffering from your chest. We are all well here my dear Mama. And they all join me in Kind Love to you my dear Mama. Many thanks my dear Mama for you kind remembrance. Your dear little Agnes is learning to say God bless Mama. God bless papa Hoping soon to see you My dear Mama I remain your Affectionate Son R C D TICHBORNE." In a letter written the day after, he writes, "I have just reeeved your kind letter and the cheque for £18 pounds. I was out when Joseph came, so he has been keep waiting some time I expect. I have enclosed the Watch in the box it came in, so that you should see who it was got it for me. I have wound it up. So if you bring it with you to morrow I will show you how to work it, and ware to find the seeret place for the miniature, it as no key it winds by the handle and you shift the Hands by means of a spring, it very simple when you once know what to do. Mary request me to give her kind love to you. And the beautiful Bird sings very well. I have read the book my dear Mama you so kindly sent me. I do not advise you to read it, as it is not much account, it is wrote by some foolish fellow that been to Paris, and thinks nobody else was ever there. I will send a cheque to Mr. Porter to morrow, it very strange that Holmes should tell me that he told Mr. Porter to come to me. I dont think my dear Mama that the Bill will be filed before next Monday that is to morrow week as they are expecting news from Australia by the incoming mail, do not go to Norris about the money any more, as I have seen a letter from Mr. Tucker, which convinees me, he is a bore and is only deluding us. I will tell you all about the meeting when you come, as I do not wish to put it on paper. Francis"—that is Baigent—"intends to return to morrow for a few days. Your dear little Agnes is quite well, and also little Roger Joseph. Myself I am quite well now, and the Doctor has done with me and my Wife too, so we are all quite well now. I hope, my dear Mama you are better

than when I last seen you. Good bye My dear Mama and God Bless you. your affectionate Son R. C. D. TICHBORNE." On the 12th he writes again: "I have only just returned. or I should not have keep Joseph waiting so long. I have been with Mary to the Palace. I had no object my dear Mama only I was agoing to dine with a Gentleman at the Club. But Mary made me alter my mind and go to the Palace with her and the Childred. So I did not go to London to day at all. I expect to be in London to morrow if I feel well. and if I do I will call on you. I have no object my dear Mama any more than I am getting tired of Croydon. I want to see Mr. Bulpett if I can. But I dont know if he will be in London to morrow or not. Mary is delighted with the Bird my dear Mama it sing so beautiful. it was singing when I came in. You have wrote me a very short note my dear Mama. I hope you will send me a longer one to morrow. My dear Mama I am quite well now only Dr. Sutherland says I must get out in the open air. more than I do. but I have been so pestered with people calling I have not been able to get out anywhere. Captain Litchfield called yesterday but I had been forwarned that they entended to play a trick on me. So of course would not see him he swore awful"—I suppose that is meant for awful—"because I would not see him. He had one or two more waiting outside. And I think one of them was Bowker. I have not seem them to day. God Bless you my dear Mama. Mary joines me in our Love and thank for the Bird. Agnes and Roger are quite well and we hope soon to see you again."

On the cross-examination of the defendant inquiry was made as to who this Captain Litchfield was whom he referred to in the last letter. It was supposed to be Captain Strickland—the Walter Strickland in the Lady Doughty correspondence, who had got on and had become post captain. "I really want the information," says the Solicitor-General, "I want to know who the gentleman is?—I have got the name on my tongue, only I cannot speak it. Q. Who was he? Can you recollect who the man was who you had been forewarned was going to play you a trick, and who swore awful?—Yes, I can recollect the man well enough. Q. Was he a relation, or not?—No; no connection whatever. Q. Was he an officer in the army with you?—I think he was a naval officer, the man I mean, he was the same party who came down to my house during my absence, when Mr. Wells called to see me; he found Mr. Wells there, and he took him away before I could see him. Q. Was he an old friend of yours?—He was a person I had known in my younger days. Q. Not a relation or connection, but a person you had known in your younger days: you had been forewarned of his coming, so that you would not see him?—Who had forewarned me I cannot say, but you may depend somebody had if I said so. Q. We will pass from

the name for the moment: Can you recollect why you did not see him, or what it was you had been forewarned about the trick; what did all that mean?—Yes, I believe it was something I had heard from my attorney that they were coming down. Q. You believe it was something you had heard from your attorney that they were coming down?—Yes, to play some trick upon me. Q. What trick did you hear they were going to play on you?—I cannot say what trick it was; my mind does not bring it back to me. Q. Your mind does not bring it back to you?—It was one of the many that was played on me, I suppose. Q. This gentleman, as I understand, whatever his name is, had been a friend or acquaintance of yours in former days?—Yes, quite so. Q. No relation?—No relation. Q. I will suggest a name to you to see whether it was the name; was it Strickland?—No. Q. Not Strickland?—Not Strickland—no; it cannot be Strickland, that is quite evident. Q. Strickland would meet some of the conditions, because he was an old acquaintance of yours and was a naval captain?—Strickland was the name I was trying to think of, but it is not the name. Q. Strickland is the name you were trying to think of; he was an old acquaintance, and was a naval captain?—Yes. Q. They used to say swear like a trooper; did he swear like a naval captain?—He swore somewhat as a sailor would do. Q. Perhaps it was Strickland, after all?—The defendant is humorous on this occasion, and says, “I do not think there was anything very strict about him. Q. Strickland, I said?—No, I do not think that is meant for Strickland; that is evidently alluding to somebody else. Q. You cannot tell me what trick you expected to be played on you by this old acquaintance of yours who was in the navy; what trick was it you expected to be played?—I am not alluding to Strickland; that is not Strickland. I think I ought to explain that, as regards Strickland, when he called I was ill in bed, and the doctor had ordered that nobody was to see me; he did swear, and went on in a very great way. The SOLICITOR-GENERAL: That seems rather like it?—He went up to town, and it was reported all over London that he rushed up stairs and found me in bed with my clothes on, which was false. Q. That looks like it? That is Strickland surely? It looks a little like it, that he was a navy captain, and swore awful; however, you cannot tell me. Did Strickland, in fact, die the other day?—I believe that he died some two or three years ago. Q. Some two or three years ago?—I will not be sure that he did so; I certainly was told that he went to Stonyhurst and died there.” If this was Captain Strickland as suggested in the cross-examination, it is a curious thing the defendant should write of him as Captain Litchfield: he does not seem to be able to suggest who this person, of whom he writes as Captain Litchfield, could otherwise have been.

On the 27th June, he writes to Lady Tichborne, "My Dear Mamma, I arrived quite safe back again—as I hope you did. When I got here I saw Mr. Holmes, he has seen Mr. Norris and Tucker to-day. I beleive the matter remains much about the same. I tell you what I wish you to do. my dear Mamma. that is has Gaurdian"—spelt with the "a" and the "u" in the wrong place—"to Roger Joseph. to engage Mr. Norris for him in this Suit. for Thursday."—It was necessary to make his son, as an infant, by his guardian, a party to the suit in the Chancery proceedings—"and if Mr. Norris declines. let me know at. Rous. Swan Inn Alresford. Of cause, I will pay all expences. Mr. Bulputt was in town to-day. and seen Mr. Holmes, and sent me a letter to say that on Monday he will place fifty pound to my credit. I have told Mary to send your letter on to me. And have left a anvelope Address to myself for that purpose. I am obliged to start from here by the ten oclock train. as there is no other train from Waterloo Station. that calls at Farnbaugh"—meaning Farnborough—"but the eleven o'clock train. I will write to you on Saturday night so that you get it on Monday morning. And be sure and write me in return. It is not"—here is a word which is one of his stumbling blocks—"It is not nesseary for me to come back on Wednesday so most likely I shall stop for some time. Be very careful what you say. My dear Mamma. Now that the Bill. is filed. to anybody that calls on you. Mary and Roger are quite well. as I hope my dear Mama yourself. and dear little Agnes is. The people at Victoria Station showed me great attension"—the last syllable spelt s-i-o-n—"to night when I went back. God Bless you, my dear Mama, and dear little Agnes. Ever your Affectionate Son R. C. D. TICHBORNE."

The defendant now went down again to Alresford, and on this occasion began one of those progresses—for such I may almost call them—which he from this time made into all parts of the country where any Carabineers were to be found. Alresford is on one of the South-Western lines, not very far from Sandhurst. At Sandhurst there were old Carabineers who had different appointments in the establishment, and among others a man of the name of Cairns, who had been Sergeant-Major in the regiment, who was an intelligent man, and whose assistance appears to have been obtained by the defendant, and to have been used upon one or two important occasions. Carter at this time was in the defendant's service. He had taken into his service both Carter, who had been so long the private servant and groom of Roger Tichborne when Roger Tichborne was in the regiment, and McCann, who had been his soldier servant for a considerable time also. Carter was taken into his service as groom, and McCann was taken into his establishment with no service at all. McCann was past work; he was an old man worked out, and who

died not very long ago; but he was taken into the establishment, and, of course, could give very important information if information was required.

Carter was sent to Sandhurst; he was supplied with money, which would enable him to entertain the old Carabineers who were in the regiment at the time he was Roger Tichborne's servant, and these men at Sandhurst were prepared by him for the reception of the defendant. The defendant goes over, and I believe they all, without exception—there were three or four of them—accepted him as the officer they had known in the regiment, and he writes to his mother thus on the 30th of June, 1867: "My Dear Mamma We arrived here quite safe last night. After having been at Sandhurst. where we have been very suxcessful"—observe the spelling of this word—"in getting more witness. having meet Sergt. Cairns and his wife who knew me directly they seen me. I have only seen Mr. Hopkins and Dr. Lipscombe at present. to day being Sunday. I am having a rest. I receved your letter this morning with the cheque for ten pound. of cause my dear Mama you have no need to send me the cheque for twenty this week as I will pay the Bills out of what Money I got. Mr. and Mrs. Hopkins begs to be kindly remembered has also the Dr. To morrow is to be our busy day. We have six person coming from Sandhurst. who I seen yesterday and about thirty that live in this neighbourhoods. I hope my dear Mama you will write and let me know how you are and dear little Agnes. I think I shall stay down here for two or three weeks. I am agoing to meet Captain Haywood to morrow one of my Brother officers. He staying here with Mr. Sumner. and he is agoing to call on me to morrow morning. I will let you know the result of the interview to morrow night, Col. Lushington has come back. But I have not seen him yet. But I shall to morrow. dont forget to write my dear Mama as I am very anxious to hear from you It a lovely day here. The sun is so warm and beautiful. I have no more to say at present my dear Mama except to thank you for your letter and the cheque."

In the last letter there is reference to his being about to see a brother officer of the Carabineers, and who was at this time Major—I mean Major Haywood—and a somewhat strange proceeding takes place, which I very much regret on more than one person's account. Major Haywood was staying in the neighbourhood, and it was desirable he should see the claimant, and, if possible, identify him as having been a brother officer; but it was desirable that Major Haywood, like anybody else who was to pronounce an opinion on the matter, should have the opportunity of forming his own opinion without any bias on his mind or any foregone conclusion. But there was, as I have told you, this Sergeant-Major Cairns, a very intelligent, quick fellow, who knew all about the regiment, and who might

therefore be a useful auxiliary ; and as soon as it was known that Major Haywood was coming, Mr. Holmes sends Rous over to Sandhurst to fetch Cairns ; and the time when Major Haywood would be in Alresford being known, Cairns is placed in such a position as to waylay Major Haywood, so as to have an opportunity of talking to the Major before the latter saw the defendant. And the same man is afterwards used for a similar purpose with regard to another officer, the witness who was called here, Major Norbury. He was sent down to Malvern, near which Major Norbury lived, and sent over in such a way as that it should be necessary for him to ride inside the carriage with Major Norbury, so as to secure him the same opportunity of talking to Major Norbury as he had of talking to Major Haywood. Cairns, when called here, was asked about this in cross-examination, and the answers are instructive as showing how this matter was carried out. “ Did the defendant at that time ask you to assist him in looking after military witnesses?—No. Q. Nothing of that kind passed between you?—Nothing of the sort. Q. You have been helping, have you not?—Mr. Holmes asked me. Q. Before I ask you about Mr. Holmes, did you go after this interview at Sandhurst to Alresford?—Yes.” The defendant had been to Sandhurst and had seen Cairns there. “ When—on the Sunday evening? How many days ago?—Next day ; on the 30th. Q. You having seen him and recognized him at Sandhurst?—Having seen him and recognized him at Sandhurst. Q. Why did you go to Alresford?—Mr. Rous came for me. Q. What was the object?—Mr. Holmes sent him. Q. But what for? Allow me to ask you were you out of employment at that time?—No ; I was gatekeeper at the college. Q. Why were you sent for, you having already recognized the defendant as the Roger Tichborne you knew in the army? Why were you sent for to go to Alresford?—To see Major Haywood. Q. He was a witness, was he not?—I believe so. Q. On the last trial on behalf of the defendant?—On behalf of the defendant. Q. What was said to you now about seeing Major Haywood?—I said I should like to see him on account of being captain of my troop. Q. You say Rous came down from Alresford to Sandhurst to fetch you?—Yes. Q. What did he say to you?—He said Mr. Holmes had sent him to me purposely to go and see Major Haywood on the Monday morning. Q. But what for?—Because I wanted to see him on account of being an old officer. Q. Do you mean to represent to the jury that that was the reason you went?—Yes. Q. First reflect what you are about?—That is right. Q. I want to know what was passing in your mind at the time?—Nothing passing in my mind at the time. The LORD CHIEF JUSTICE: Had you at that time expressed any desire to see Major Haywood?—I told Mr. Holmes so. Mr. JUSTICE LUSH: Before that?—Before that time. Mr. SERJT.

PARRY: When did you see Mr. Holmes?—On the 29th of June.
 Q. You mean when you first saw the defendant at Sandhurst you had expressed a wish to see Major Haywood?—At the same time.
 The LORD CHIEF JUSTICE: When the defendant came to Sandhurst was Mr. Holmes with him?—Yes. Mr. SERJT. PARRY: Was anybody else?—Nobody else. Q. Mr. Holmes was with him at the time?—With the defendant. Q. Do I understand you then expressed a wish to see Major Haywood?—Yes. Q. But how long before was it you had seen Major Haywood? What time had elapsed?—Seven or eight years; more than that. By the JURY: Was Major Haywood an officer in the Carabineers?—Yes. I had not seen him, I dare say, for sixteen years. Mr. SERJT. PARRY: How came you all of a sudden to express a wish to Mr. Holmes to see this gentleman, your major, whom you had not seen for sixteen years?—Mr. Holmes told me he was at Alresford. Q. Then it was Mr. Holmes told you he was at Alresford?—Yes.”

Let us pause for a moment. Rous, the important person, is sent to fetch Cairns, and Cairns, as you will see in a moment, has a conversation with Major Haywood. But he says that was in consequence of his having expressed a desire to see the officer whom he had formerly known in the regiment, but whom he had not seen for sixteen years. Now, I do not doubt for a moment that he did express that desire, but inasmuch as he had nothing to say to Major Haywood on his own account, and did not say anything to Major Haywood on his own account, his whole conversation with Major Haywood, according to his own evidence, having been confined to the matter about the defendant, the way in which I understand his explanation is this: When they told him at Sandhurst that Major Haywood was staying in the neighbourhood, and Major Haywood and the defendant were to see one another, he probably said: “Let me see Major Haywood before he sees the claimant;” and accordingly before Major Haywood sees the claimant, Rous is despatched all the way to Sandhurst to bring Cairns over. Cairns is asked: “Did you tell Major Haywood you recognised him; that you believed he was Roger?—Yes. Q. Did you say to him you believed if he saw him he would recognize him also?—I might have done. Q. Had you much further conversation? Do you remember telling Major Haywood—I believe you told him, did not you, that he was much stouter than he was when he was in the regiment?—I might have done so. Q. Did you ask Major Haywood whether he remembered the twitching of the eyes that Roger had?—I do not remember. Q. You might have done so?—I do not remember. Q. I mean in conversation?—I do not remember. Q. You do not remember whether you said anything? Did you say anything about the twitching of his eyes?—I think not. Q. You

are not quite sure?—I am not quite sure. Q. You might have mentioned it?—I will not say. Q. Did you mention to Major Haywood anything about the upper part of his face?—No, I think not; only about the stoutness. Q. Did not you tell the Major how it was you recognised him?—I think not. Q. How long were you with him?—We walked up the street together. Q. How far off was it?—200 or 300 yards. Q. A short distance?—A short distance. Q. And then you walked back with him, is that so?—No, I parted with Major Haywood at the Swan. He went into the room where Sir Roger was, and I went into another room.” It is quite obvious he had nothing to say to the Major on his own account. He waits a certain distance from the Swan until the Major gets into the street; he walks down to the Swan with him, talking about nothing but Roger Tichborne; no doubt preparing the mind of Major Haywood for seeing a man whom, if he had not been prepared, he might not have recognised as Roger Tichborne. He waylays him for the purpose, and walks down with him to the Swan. Afterwards he has an interview with the defendant. He is asked whether he had any further conversation with the defendant. He says he had. “What conversation had you with the defendant?—He asked me about the officers and several things in the regiment. Q. You asked him?—He asked me. Q. Do you remember the names of the officers he mentioned?—Yes, about Major Bott and Captain Pinkney. Q. And Captain Moreton, do you remember?—Yes. Q. How long do you think you had the conversation with him?—A short time. Q. And during this time you say he was asking you questions about the regiment, and you answered them?—Yes. Q. Did he ask you about the men as well as the officers?—Some of them. Q. What men did he name?—He asked about Fenton, Dempsey, and Linder.” Then he says, “I never put a question to him.”

Here again, what was the purpose of this conversation, this man having already acknowledged the defendant? A conversation of that kind, about persons who had been in the regiment, officers and soldiers, might be the means of obtaining from Cairns a good deal of knowledge about matters which the defendant, either being Roger Tichborne, had known and forgotten, or, not being Roger Tichborne, had never previously known. Cairns was a very willing instrument in his hands, righteously or unrighteously I will not say; but he makes himself active on one occasion with Major Haywood, and on another occasion in going down to Malvern to Major Norbury.

Then there is a letter from Alresford of the 2nd July, after the meeting with Major Haywood: “My Dear Mamma I received your kind letter this morning and I am delighted to hear Mr. Norris is going to act for my son. We have succeeded first class since we

been here. I met Major Haywood. here yesterday. He called on me with Mr. Sumner. the Bishop of Winchester. Son. He was one of my Brother officers. He recognized me at once. and made an affidavit at once. I likewise was very successful at Sandhurst has I met several there who I had not seen before. I had them all down here. and they had their military"—a strange way of spelling the word military for one who had been three years an officer—"clothes on. and I think they thought I was going to take the town. I hope my dear Mamma that you and Agnes are quite well. You will see Mr. Holmes. I have told him to call on you. I will write again tomorrow. I have seen Mrs. Stubbs, who remembered me perfectly well. and begs to be kindly remembered to you. as also Mr. Hopkins and several others here who enquire very kindly after you. I am going to meet Mr. Gilbert Onslow"—it is a striking thing he should call Mr. Guilford Onslow, a name Roger Tichborne must have known, *Gilbert Onslow*—"at Tichborne at four o'clock this afternoon. and Mr. Shelley. Mr. Benson called yesterday and left his card. Mr. Bishop, and the two Mr. Longs called yesterday, Col. Lushington. and Mr. Brodie. and several others persons. Mr. Bulpett has just called. so I must say Goodbye. my dear Mamma for the present Ever your affectionate Son R. C. D. TICHBORNE"—the word son again written in the last line.

On the 4th of July he writes to her from Croydon:—"I have stayed in doors all day. in expectations of your coming as Mary told me you said you would come to day. I came home last night by the last train. I should have stopped longer. only I wished to get my Bills paid. I have promise to return to Alresford on Saturday. Mr. and Mrs. Marks begs me kindly to remember them to you. and also the two Miss Onslows and Mr. and Mrs. Hopkins. You would be surprised how all my old friends called on me. I spent a day With Mr. Marks. and a day with Mr. Benson. and Col. Lushington. I hope my dear Mamma you are quite well. and also little Agnes. who I expected to see to day, But it will do when you come. I hope my dear Mamma you will let me know when you are coming so that I can be in. I will have to go to London tomorrow about 12 o'clock to the Poultry. I hope you have seen the telegraph"—I suppose he means the newspaper, but it is written with a small t—"their is a long paragraph about me. Let me know when you will come and see me my dear Mamma because I might be away for two or three weeks next time. It cost me very near all my fifty pound at Alresford this trip."—Cost him nearly 50*l.* at Alresford this trip! What for? He had only been there a few days; how could he have spent 50*l.*? To be sure if Carter was sent to Sandhurst, and the defendant went over to Sandhurst, and there was treating going on by way of conciliating favour, that would very soon run through 50*l.*,

or a large portion of it ; otherwise I do not see how going to Alresford and staying a few days at the Swan could cost 50*l.*—" But still it all over now and as not to be done again. God bless you, my dear Mamma, Your Affectionate Son R. C. D. TICHBORNE"—signed as in the last instance. Then he writes to Mr. Rous, and this shows the sort of way the claim of the defendant was made matter of speculation among these people, who do not scruple to bet on anything and everything:—" Dear Rous Yours to hand. also the Parcel. thanks. Bloxam and myself was much surprized, because Mr. Yates had written to say that Dr. Lipsecombe and yourself had accepted a bet of a Hundred and fifty to fifty. and calling on Bloxam to have the money ready by last Monday Morning. Mr. Bloxam of course got the money ready and went to the appointed place of meeting but found no Mr. Yates. I think it very foolish. of Mr. Yates to play these practical Jokes as it does nobody any good. I have to go to a Ball tomorrow Evening so shall not get away before the end of the week My wife joins me in kind regards to Mrs. Rous yourself and family. Believe me"—and so on.

It was about this time that a somewhat remarkable correspondence took place between the defendant and Captain Polhill Turner. In this month of July the defendant had some circulars written, which appear to have been prepared in the office of his attorney in a very formal style ; they are all in the same language, and evidently circulars ; and he sent them round to various officers whom Roger Tichborne had known, and this is one of them, addressed to Captain Polhill Turner, of the 5th of July, 1867 :—" Dear Polhill—No doubt you have seen by the papers that I have returned to England after a long absence and that I have to go to Law to get my Estates. I intend to see all my old Brother officers. Will it be convenient for you to see me if I call upon you some day next week. If so I will do myself the pleasure of taking a journey for the purpose." Captain Polhill Turner resided in the country, in the neighbourhood of Bedford. He answers the defendant saying he will be happy to see him at his place in Bedfordshire, and if he would come and have lunch with him they might have their talk, and the defendant and he might be better acquainted. Then on the 9th of July the defendant writes, "I have much pleasure in accepting your kind invitation for Wednesday next. Thanks for your letter. You will find me much stouter than I was in the Carabineers. Yours faithfully, R. C. D. Tichborne." But, instead of the defendant going down as invited, and as he had agreed to do by accepting the invitation, he sends a telegram : "From Sir Roger Tichborne of Croydon to Captain Polhill Turner Haybury Hall Bedford I am suddenly obliged to go into Hampshire this morning to see most important witnesses who are going away Excuse me therefore being with you

to day as arranged I write you by this post." Then he writes to him: "10th July, 1867. Dear Polhill I intended doing myself the pleasure of calling upon you to day. But my Solieitor found it necessary"—he had got nearer the word "necessary," still he writes an "e" instead of an "a"—"that I should start for Hampshire to see some Friends who are about taking a Journey. And its very important to my case that I should see them. But I hope it will not be long before Tich and yourself meets." On the 10th of July he writes a letter to Lady Tichborne, which shows that the acceptance of this invitation was altogether delusive. He had sent this circular to Captain Polhill Turner, but never meant to go near him. It would look as if he did not feel that Captain Polhill Turner was a person whom as an old brother officer he would like to encounter. Captain Polhill Turner had been the captain of the troop into which Roger Tichborne was promoted or transferred as lieutenant.

The letter of the 10th of July is as follows:—"My Dear Mamma I saw Mr. Holmes has soon as I got back from the station. I told him I did not entend to go to Lunch with Polhill at Bedford at all. I told him what I thought, and he was quite satified. He had receved a letter from Alresford saying, Mr. and Mrs. Marks, were about leaving to go to Spithead, and they wished to see me at once, as it was nesessary for them to see me again before they made their Affidavids So I entend to start by the 11.40 train from Waterloo. I shall only be away a few days. I will be sure and write to you every day. I am also agoing to call upon Mr. Scott of Rotherfield park and the two Miss Onslows, as I wish to get their affidavids, before I come back. I told you I would not go to Bedford, and I am not agoing. I hope my dear Mamma you will write and tell me how you are and what going on, and when Mr. Tucker will want me up to sign the Bond for the money. I will call on Mr. Norris when I come back but I will let you know so that you can meet me there. Agnes, Roger Joseph and Mary, are quite well, and joines me in Love to you, my dear Mamma, I hope Joseph comes before I start. But I write this in case he does not. God Bless you, my dear Mamma. Mr. Leete called just before bed time and stayed for a few minutes, he wished me to remember him to you, he is quite well. This from your ever Affectionate Son R. C. D. Tichborne." This letter was read to the defendant on his cross-examination, and he was asked the meaning of his having accepted the invitation of Captain Polhill Turner, when from the letter it was apparent he had no intention of going to Bedford at all. His answer is—"My mother did not wish me to go; I think she had an objection to my going. Q. Had she?—Yes; I think so. Q. An objection to your going to Bedford? What was it?—I do not know, I am sure: I have some idea that she had some objection to my going there.

Q. Have you an idea that she communicated that objection to you before you wrote to Captain Polhill?—No; I think not before I wrote to Captain Polhill. Q. Why did you write to say you would have much pleasure in accepting his invitation?—There is no doubt when I wrote the letter I intended going. Q. That is the day before only—the 9th of July?—Which letter is the 9th? Q. On the 9th of July you say you have much pleasure in accepting his kind invitation?—Just so. Q. Then, on the 10th, you say you are suddenly obliged to go to Hampshire, and on the same day you tell your mother that you had told Mr. Holmes you would not go at all: perhaps you will explain that?—It appears to me rather a difficult matter to explain after the length of time. Q. So it appears to me?—There is no doubt that there was some cause at the time, but I cannot recollect what it was. Q. And particularly as you tell Mr. Holmes what you thought, not what your mother thought, ‘I told him what I thought?’—Well, I wonder what it was I told him, for I am sure I do not remember. Q. And in that letter you told him you hoped you would see him before long. If you have any explanation—No; I have not: I do not know what the cause of it was, I am sure.” It appears Mr. and Mrs. Marks were made the excuse for his not going. He writes again on the same day from Alresford, “My Dear Mamma I just send you a few lines to say that I arrived quite safe here. I have spent the afternoon with Mr. and Mrs. Mark and they are quite willing to make Affidavit now. I am agoing to dine with Mr. Hopkins to night Mr. Scott has invited me to lunch to Morrow. I will write to you every day my dear Mamma. until I return. I am so glad I did not go to see that Officer to day. I was very glad when Holmes was agreeable for me to start for Hampshire. for I know I am amongst Friends here. I told Mary to send your letter on to me. They ware all quite well when I left Croydon. I hope my dear Mama you will send me a few lines every day. so that I shall know how you are. God Bless you Mama dear Ever your Affectionate Son R. C. D. TICHBORNE.”

We have now got to the month of July, and in the early part of that month, the time had come when the defendant was to take his initiatory step to begin litigation, and the first step, as I told you, was an application to the Court of Chancery, on making which application it was necessary that he should file an affidavit stating particulars connected with himself, from the time of Roger Tichborne’s leaving to the time of his (the defendant’s) return; and he stated those facts shortly, but in sufficient detail for the purpose for which the affidavit was filed. On his making this affidavit and filing it, the opposite party were entitled to cross-examine him upon it. They gave him notice of their intention so to do, and a barrister,

Mr. Roupell, was appointed by the Court for the purpose of taking the evidence.

It here becomes important to consider what sources of information the defendant was at that time possessed of, independently of his own mind and memory, to enable him to answer the questions which were certain to be put to him on cross-examination on that affidavit. If he were Roger Tichborne, he would know the things about which he would be asked, but, inasmuch as one view of this case is that he is not Roger Tichborne, we have to see whether we can account for and explain the knowledge which, if he were not Roger Tichborne, he would ostensibly, but only ostensibly, possess. Let us see how the matter stands in that respect. In the first place, he was in constant intercourse with Lady Tichborne. He was not living with her at that moment, because she had left Croydon, and was residing at an hotel in town; but he had had Lady Tichborne for some time living with him, and although she was no longer living with him, he was in constant communication with her. Now it would be quite inconsistent, I think, with truth and justice, and certainly with the views I have already expressed, to suggest that Lady Tichborne would have lent herself to what she believed to be a fraud; but she started from the beginning by assuming and believing that any ignorance that the claimant might display was not to be set down against him in the account, because she believed his memory had become impaired, and his brain more or less disordered, by all he had gone through; and when he could not state a thing that Roger Tichborne might have been expected to know, that was to be ascribed to the loss of memory; and when he stated things which it was quite impossible Roger Tichborne, under any circumstances, could have been supposed to state, that was put down to the disordered state of his intellect. That being so, and she being confident he was her son, she would naturally seek to assist and befriend him in this state of helplessness of mind and memory; and, instead of being struck by inconsistencies and contradictions which would have startled anybody else, she only saw in them additional reason for coming to his assistance. Therefore, I do not think there is any doubt that wherever Lady Tichborne saw him in fault, she would, as far as in her lay, come to his aid.

Besides that, he had several other sources from which he might derive information. He had brought Bogle over with him, who knew everything that had happened in the family for years, certainly during all the period Roger Tichborne was living in this country and was in the habit of frequenting Tichborne.

Then there was Baigent, who had become an active ally, and who seems to have been a gentleman who was not particularly scrupulous as to the means he adopted for being useful to his friend; for this was

the gentleman who went about the country taking notes of what Carabineers and other people who were brought into the defendant's presence said, and then, having prepared affidavits, issued and circulated those affidavits, so as to prepare the minds of persons, who were afterwards to be dealt with, for accepting the defendant as the true man. And that is not by any means all; for we find that the statements taken from the lips of the different witnesses, and afterwards moulded into the form of affidavits, were, in several instances, as has been proved in the course of these proceedings, most materially expanded, enlarged, and altered for the better, under the skilful manipulation of Mr. Baigent. Nobody knew more about the Tichbornes than Baigent, because he had been for some time collecting materials for writing a history of the family, and he was by profession an antiquary and archæologist, and knew all about it.

As regards the life in the army, the defendant had taken McCann into his establishment, without requiring any service from him, just as he had brought Bogle over to this country most unnecessarily. There was not the slightest reason why he should have put himself to the expense of bringing Bogle over. He was settled in Sydney, and surrounded by his family. In the same way he takes McCann into his establishment (I will not say service, for McCann did nothing) just at this period, when every scrap of information concerning the military life of Roger Tichborne might be of infinite value. Carter and McCann knew Roger's military life; Carter had been with him from 1851 till he went abroad, and, before that, he had been in Captain Morton's service, an officer with whom Roger was intimate. Carter had been in the service of officers in the regiment, and so was in the regiment during the whole period of Roger Tichborne's life in it. Those three persons, Bogle, Carter, and McCann, were persons whom it was not necessary for the defendant to take into his service, and who he knew, if the matter came to trial, would certainly be called as witnesses on his behalf. Now I have no hesitation in saying that it was a most irregular and improper thing to take into his service, or into his household, persons thus circumstanced, who could afford him information on matters as to which he would afterwards have to be examined, and as to which he ought altogether to have kept aloof from extrinsic sources of information. When you are going to call a man as a witness he ought to be independent of you, as far as the thing is possible. I do not mean to say that if the evidence of servants or persons in your employment or establishment becomes necessary, you are to turn them away, because they are afterwards to be your witnesses. Nobody would expect anything so extravagant as that; but when you want persons to come forward on your behalf as witnesses, the last thing you would think of is to take them into your establishment; especially to take them into your

establishment not for the purpose of service, but where they are to be entirely dependent on your bounty. The defendant might not have been aware, not being conversant with the administration of justice, that this course of conduct would be open to reprehension or be likely to prejudice him afterwards. But how his attorney, Mr. Holmes, could have allowed him to do this I cannot understand. Mr. Holmes, the moment he heard the defendant was going to take Carter into his service, or to take McCann into his establishment, and allow him to live on his bounty and charity—for it was no more—ought to have said to him, “Do not do that on any account; you will expose yourself and these people to serious observation; it will naturally be said you have taken them into your establishment for the purpose of obtaining information from them, and also of so attaching them to you, that they will afterwards be unhesitating witnesses on your behalf. Do not do it; it will expose you to observation which you had much better avoid.” Mr. Holmes does not appear to have made such a suggestion to the defendant. I do not know if Mr. Holmes had any reason for allowing conduct so exceptional; I can only say I hope there is not any other solicitor who would take the view Mr. Holmes appears to have taken of these proceedings, or who would not have induced his client to abstain from taking so objectionable a course. However, these people were about him, and you will have to judge by-and-by whether they were made available for his purpose. Do not let it be supposed that I mean to say Carter, or McCann, or Bogle were leagued with him in what is called a conspiracy to enable him to commit this fraud, if it shall appear to you by-and-by to be a fraud. It is wholly unnecessary to believe anything of the kind; and yet they might very easily be made available for his purpose, if the purpose was a dishonest one. For, a clever man like the defendant would not have the slightest difficulty in extracting from these people, in the course of an apparently casual conversation, any information they possessed and which he wanted to obtain from them. It would be the easiest thing in the world. Suppose Carter was occupied in his business in the stable, and the defendant was aware that some particular officer was coming down to see him. He would get into conversation in the most natural and apparently artless way about this officer: he would say, “Do you remember Captain so-and-so? He was in our troop, or he was in such a barrack or such a place,” and immediately the man to whom this was addressed would bring up matters connected with the officer in question. I do not say this did happen, I only say it might happen, and in that way information might be extracted. If a man is perfectly unconscious that he is being played upon and made the tool of another who is thus dealing with him, nothing is more easy than to lead him into conversation, and you may get fifty things out of him. You begin

conversation about something connected with the regiment; a man is pleased to talk of old timēs; he goes on talking; one thing leads to another; he mentions some circumstance or some anecdote; he mentions some particular name in connection with some particular event; all of which is treasured up in the mind of the man who knows he may have to use it, and it is brought forth and made available when the opportunity arises. All I mean is, that this is perfectly possible; and a man who surrounds himself with sources of information of that kind, in defiance of ordinary considerations that ought to operate on him, is necessarily exposed to observation and to inferences that may be drawn from the exceptional line of conduct he thinks proper to pursue.

Before I quit the persons from whom information might be obtained, there was also, besides these, another person; that very remarkable witness, Miss Braine, who not only came forward as a witness for the defendant, but who was staying in his house for months at a time, a singularly intelligent person, who in the twelve months that she stayed at Tichborne with Lady Doughty, you may depend upon it, acquired a great deal of information about the Doughty and Tichborne families, and everything connected with them; and you will have, when you come to her evidence, to consider whether the course pursued does not fairly lay her open to the observation of having probably afforded the defendant any assistance it might have occurred to her that he required.

Passing from the persons by whom he was surrounded, let us see what documentary evidence he possessed. First as to the life of Roger Tichborne at Paris: about that there was no document which he could obtain which would throw light on it. Next came the life of Roger Tichborne at Stonyhurst. Does he do anything to prepare himself for that? His attorney takes care to get a list of the Stonyhurst fathers, so that, if any question should be asked about the Stonyhurst fathers and the people who were in authority at Stonyhurst during Roger Tichborne's time, that might be forthcoming as a source of information. Did that come into the hands of the defendant? On that there was a very great struggle. On his cross-examination he positively denied ever having seen this list, and denied in the strongest terms all knowledge of its having been supplied. He is asked, "Did not Mr. Anthony Norris procure, and charge for procuring, a list of all the fathers of Stonyhurst for Lady Tichborne to show you?—I think not." Mr. Anthony Norris was at this time Lady Tichborne's own solicitor, she having discarded Mr. Bowker and taken that gentleman in his place. "Q. Will you go further?—Yes, I think I could go a little further: to the best of my belief he did not. Q. Do you know Mr. Norris's handwriting?—Yes: well I would not like to say I knew his handwriting.

Q. Have not you ever corresponded with him?—Yes, I have corresponded with him. Q. Do you really mean to say that Mr. Norris did not procure for the Lady Dowager Tichborne, and that you did not see, a list procured by him of all the fathers at Stonyhurst?—I have no recollection of it. Q. You have no recollection?—No. Q. Will you swear you did not?—No, I will not swear I did not, but still I do not believe he did so. Q. This is since 1867, since you returned to this country?—Yes. Q. What I am putting to you is a list of the fathers of Stonyhurst College, procured by the Dowager's attorney for the Dowager, on the 11th of July, 1867, about a fortnight before the examination before Mr. Roupell; a list of the Jesuit fathers of Stonyhurst College between 1844 and 1849, during the period that Sir Roger Tichborne was there, forwarded to him by Mr. Holmes for the purpose of seeing them. What do you say to that?—What I have to say to that is, I believe it is a great scandal on Mr. Norris and a great imputation on Mr. Holmes; I do not believe it happened. Q. You do not believe that it happened; a great scandal on Mr. Norris and a great imputation on Mr. Holmes?—Yes, I think so.” Then a long discussion takes place on the admissibility of these questions. That being got over, the Solicitor-General says, “Now what I asked you I ask you again, whether you mean to swear Mr. Holmes, your attorney, did not send to Mr. Norris, the Dowager's attorney, with your knowledge, a list of the Jesuit fathers, from 1844 to 1849, to be perused and checked by him: I will tell you—Mr. SERJT. BALLANTINE: Do not tell him anything. The SOLICITOR-GENERAL: I have a right to tell him this, because it is perfectly legitimate. I have sent for Mr. Norris's bill. Mr. SERJT. BALLANTINE: No, that is not legitimate. The CLAIMANT: I am speaking from memory, and all I can say is, I have no knowledge whatever of it. The SOLICITOR-GENERAL: No knowledge of what?—I have no knowledge whatever of that paper you are speaking of, and it stands to reason—it is plain it is. Is it possible, if I had such a document, I would go a fortnight afterwards and be examined and not remember any man who was there? Q. That depends: I am asking you now on a question in which you say you had remembered them all just before, and had been talking about that?—No doubt. Q. Had you the materials for knowing them all just before and talking about them?—Certainly not. Q. That you swear?—That I swear, no more than my memory. Q. Will you swear you did not see that list?—No, I will not swear. Q. You will not swear?—Certainly not: I cannot remember every document I have seen. Q. And read it?—No, I do not believe I did. Q. Will you swear you did not?—It is a very hard thing to swear, because one cannot remember every paper and document they have looked at in their lives. Q. What I

am putting to you is a list of the Jesuit fathers at Stonyhurst from 1844 to 1849, while Sir Roger Tichborne was there, which I suggest to you was sent by your own attorney to the Dowager's attorney to be perused and checked ; there are not many such documents. Now I ask you on your oath—you will not deny that you saw it—will you swear that you did not read it?—I do not believe I did. *Q.* Will you swear you did not?—Well, I do not like to swear to a thing. *Q.* Eh?—I do not like to be so careless to swear to a thing like that : In the first place, if Mr. Holmes had it, I do not believe he would have allowed me to see it.” Well, they get Mr. Norris's bill, in which there was an item charging for having obtained this list, having it corrected, and sending it to Mr. Holmes. Afterwards the subject is resumed, and the Solicitor-General says, “The jury will recollect about the list of the Jesuit fathers which was procured, which was sent by Mr. Holmes to Mr. Norris for perusal and correction. We desired Mr Holmes to produce it, and he tells me it was handed to the claimant. We have given notice to produce it. Do you produce it?—I have no recollection ; I am not aware that I have seen it. *Mr. SERJT. BALLANTINE:* I concede everything that is necessary for my learned friend to ask that question. *Q.* Will you swear that Mr. Holmes did not give you that list?—Certainly not. If Mr. Holmes says he did I have no recollection of his doing it. *Q.* You have no recollection of receiving from Mr. Holmes a list of the fathers of Stonyhurst, perused and corrected by Mr. Norris?—No, I have not. *Q.* The Dowager Lady Tichborne's attorney?—No, I have not. *Q.* Did you think it of no importance?—I really cannot say, inasmuch as I do not remember anything about it.” Then Serjeant Ballantine admits that Mr. Holmes did get this from Mr. Norris, and then the Solicitor-General says, “A list procured by your attorney, sent to the Dowager's attorney for correction, corrected by the Dowager's attorney, and returned to your attorney, and by your attorney handed to you. Do you mean to say that you cannot tell me when that was?—No, I cannot indeed. *Q.* When did you receive it?—That I do not know, because I do not say I did receive it. *Q.* Your counsel is good enough to admit that you did receive it from Mr. Holmes. *Mr. SERJT. BALLANTINE:* There is an entry in Mr. Holmes's book. *The SOLICITOR-GENERAL:* Yes, an entry in Mr. Holmes's book showing that he handed it to you. The date which is furnished by Mr. Holmes is the 22nd July, 1867. You were examined before Mr. Roupell in Chancery on the 30th or 31st of July, and the 1st of August?—Yes. *Q.* Now you received this list procured by your attorney, I think, corrected by the Dowager's attorney, who charged for perusing and correcting it, returned to Mr. Holmes, given to you on the 22nd of July, the examination being on the 30th and 31st of July. Do you mean to say you do

not know what became of it?—I do not: I am not aware that I have ever seen it.” Then he is very much further pressed on this matter. He persists in saying he does not know what has become of it. He has no remembrance of having seen it, and he is asked at last, “What do you say about what you said about its being a great scandal on Mr. Norris and a great imputation on Mr. Holmes?—I do not believe it happened. Q. Do you say that now?—Well, I cannot: if Mr. Holmes says it did happen, of course I have no right to contradict. Q. You cannot, because it did happen, now that Mr. Holmes says it happened. Are you of opinion still that it is a great imputation on Mr. Holmes and a scandal on Mr. Norris?—No, I do not know that I am. Q. Did not you perfectly well know when you gave me that answer on the 13th of June, that you had had that from Mr. Holmes, your own attorney, about a week before your examination before Mr. Roupell?—I do not know it, or I should not have passed that remark if I had. Q. Is that true?—Is what true? Q. Your last answer?—Yes, it is.” It is therefore certain that this list of the Jesuit fathers, having been corrected, did reach the hands of the defendant, and one must suppose it was not procured without some purpose, and the inference which may be drawn from such a list having been obtained is, that the defendant, from forgetfulness if he was Roger Tichborne, or from ignorance if he was not, was not aware of the names of the authorities in Stonyhurst in his time, and therefore this list was procured. Whether he made diligent use of it is a totally different matter; but that it was procured for the purpose of refreshing his memory, or affording him information, as the case may be, can scarcely be doubted. So much for any document relating to Stonyhurst.

As regards his life in the army, official papers were procured, a fact which, of course, was unknown to the various officers and soldiers with whom he came into communication. A paper was procured from the Horse Guards at the instance of the defendant’s advisers, which gave a detailed account of all matters connected with the service of Roger Tichborne individually; and also a second and more elaborate paper, containing all the details and particulars relating to the movements of the regiment, and mentioning the names of the different officers and the dates of their promotion, and various other particulars connected with the regiment during the time it was in Ireland, and afterwards when it was at Canterbury. To a man who took the trouble to study these papers, there was a rich mine of information relating to Roger Tichborne and the regiment, of which a person disposed to make use might, of course, readily avail himself. When, therefore, the defendant came into contact with the various officers and soldiers connected with the regiment, he would have at hand a variety of details which he could make available; and again,

from his conversation with them he would gather information which might be brought forward afterwards.

At the same time, it is not absolutely necessary, because those papers were obtained by the advisers of the defendant, and he had the opportunity of studying them, to come to the conclusion that this was done because he was not Roger Tichborne. For there are many things connected with a man's career that, ten or twenty years afterwards, may have slipped out of mind and memory. If any one of us knew we were going to be examined in a court of justice on matters connected with our past history, we might be desirous of refreshing our memories. If a man had a diary, or had documents to which he could have recourse relating to his past life, he might say, inasmuch as I may be asked about past events and may not have answers ready at a moment, let me go through the documents which will refresh and revive my recollection, and enable me to give satisfactory answers rather than be at a loss, and have it supposed either that I am not the individual I represent myself to be, or that I have knowledge on these subjects and have an object in concealing it. I quite understand, therefore, that a man's attorney might get such documents for his use, and the man might use them quite fairly and quite legitimately without having any dishonest idea in his mind at all. All I mean to say is that papers of that kind, while they might be legitimately used, might also be made available for a dishonest purpose—that of informing a man as to matters, not which he had forgotten, but which he had never known.

Besides those papers there were the letters—and possibly it was to those letters that the passage in the letter of the 20th of April to Lady Tichborne, asking her whether she had found some of the letters, may refer—the letters of Roger Tichborne to his father and mother, many of which had been kept, and some of which—whether all we have no means of knowing—have been produced before us. The letters which came from South America gave a copious and detailed account of Roger Tichborne's proceedings there. You know that he sent to Lady Doughty a long extract from his journal, which contained an account of all his movements from the time he landed at Valparaiso to the time when, having crossed the Pampas, he came down to Buenos Ayres. He had promised some time before to send a like extract to his mother. Having promised this, it is probable he did send a copy of the extract to his mother at the same time that he sent one to Lady Doughty. He had full opportunity of sending it to his mother at the same time, and one can see no reason why he should not have fulfilled that promise; and, though the defendant on his cross-examination denied having sent his journals home to his father or mother, he has himself in another part of his re-examination, when he was being asked about another subject, stated that he did

send a copy of that journal to his mother. On his cross-examination he was asked: "At the time that you sent your daguerreotypes home to Lady Tichborne, did you at the same time send home to Sir James and Lady Tichborne your journals?—I think not. Q. Upon your oath, did you not send home to Sir James and Lady Tichborne, at the same time you sent your daguerreotype, your journals?—I believe not. Q. Will you swear you did not?—I have no recollection of having done so. Q. Will you swear you did not?—No, I cannot swear I did not. Q. Did you keep journals?—Yes. I did keep a diary. Q. You did keep journals?—I do not know about journals. I kept a diary." But on re-examination by his own counsel, with reference to the passage across the Andes, and the accident to the mule, the defendant asserts that he sent the same extract from his journal to his mother as he sent to Lady Doughty. Serjeant Ballantine asked him with reference to the accident: "Was there any English person with whom you had any acquaintanceship coming up in that way?—No; excepting those I wrote to about it. Q. Then nobody but those you wrote to on the subject knew anything about it?—No. Q. And Jules Barrault?—No. Q. And the letter you wrote seemed to have been to a Mrs. Seymour?—I wrote a copy of that letter I wrote to my mother to Mrs. Seymour too; it gave the same statement, because I took it from my diary. Q. You took it from your diary, and therefore gave the same statements?—Yes." We may be certain, therefore, that the same extract from Roger's journal as was sent to Mrs. Seymour reached Lady Tichborne. The defendant would not have made that statement unless, if Roger, he had sent the extract, or, if not Roger, he had seen it.

He says he took it from his diary and sent it to his mother. Where is the letter? where is the extract? Lady Tichborne would have been as likely to keep it as any other of the letters he wrote her from South America; indeed, more likely to keep it than any other, because it was the one which contained the fullest details. If so, where is it? Whether the defendant had seen the letters at the time of his first examination must depend on whether Lady Tichborne had found the letters and the defendant had got possession of them. That he had possession of them after Lady Tichborne's death is certain. The letters, certainly all those which have been produced before us, were for some time in his possession. Lady Tichborne died on the 12th of March, 1868. The letters and documents belonging to her, which he was ordered by the Court of Chancery to give up in order that they might be detained until the issue of the litigation was determined, were all in his possession from the date of her death until the month of June when they were delivered up; and if he was anxious that she should find some of the

letters, it may be but reasonable to conclude that when for three months he had them in his possession, he would take care to read them, and if he did, and still more if he took any note of them, he would have the South American information all ready to his hand. I do not say he did this, I only say he had the opportunity of doing it.

Then there is another head of information which is more or less conjectural, but which still ought not to be lost sight of altogether: What has become of Roger Tichborne's diaries? That Roger Tichborne kept a diary is quite certain, and that he did so from a comparatively early period. Whether he kept a diary when he was at Stonyhurst we have no certain information, but we know that when he came to reside at Tichborne House, which he did in the latter part of 1848, remaining there until the latter part of 1849, he did keep a diary. Mr. Gosford—in whose office he used to come and sit and read and write and do the work that he had to do, and who, therefore, constantly saw him, was asked whether Roger Tichborne kept a diary. He says, "I know he kept one, as far as one can know a thing that one cannot say one has seen. My reason for saying I know it is that in conversation, when anything struck him, or he met with some remark in anything he was reading, he would say, 'I must make a memorandum of this in my diary.' And another thing I can as well remember as yesterday, in lively conversation in the drawing-room of an evening, I have heard him say to his Aunt Doughty many a time, 'Ah! that is very good, I shall put that down in my diary.' Therefore I have not a shadow of doubt that he did keep a diary, but I cannot remember that I ever saw him writing in one. I should think there are members of the family who can corroborate that." Lady Radcliffe is asked whether, to her knowledge, when at Tichborne, he kept a journal?—"Yes, I know he did. He frequently alluded to it. He frequently said, 'I will enter that in my diary,' or words to that effect. Q. Have you any scrap of paper which confirms your memory on the subject?—Yes; I have." A paper was produced by her with these words, most unquestionably in the handwriting of Roger: "I must try and write something of my journal to night if I possibly can." So that it would appear that he had allowed days to pass and facts to accumulate, and he seems to have thought to himself, "I must not delay this any longer, I must try and write something of my journal to night if I possibly can." Lady Radcliffe is asked where she got that from, and she says, "He gave it to me at the time. He wrote it on that scrap of paper. I forgot all about it, and only found it last year just about the time of my own examination. There it is;" and she produces it, and it is in the undoubted writing of Roger Tichborne. That conclusively proves

that he kept a journal at that time ; that he did so on his travels is also quite certain from the fact of his having sent over an extract from it.

Now the defendant agrees that Roger Tichborne did keep a diary, that is to say, he says he himself did. It is put to him : “ You mentioned to my learned friend that while you were out in South America and those parts you kept a diary : when did you begin keeping a diary?—You heard I kept a diary, where? Q. I thought you mentioned it to my friend ; I may be wrong, but at the time you were out in the ‘ Pauline ’ and afterwards in South America, I mean you had a diary of what took place day by day : You said so, did not you?—Yes, very likely. Q. I want to know when you began to keep a diary?—I think the diary I spoke of was one I alluded to in my last trip to South America ; I think so. That is the diary I alluded to, but I do not mind telling you, as you wish to know, I did keep a diary previous to that. Q. I thought you alluded to it, and I wanted to know when the habit began?—That is very hard, but I daresay I can do it. Q. Did you keep one at Stonyhurst? Had you one as early as that?—No, I do not think so. Q. Are you sure?—No, I am not sure? Q. What is your impression?—My impression is that I commenced a diary about 1852. I do not say I did not keep one before, but to keep a regular diary. Q. You do not say you did not keep a diary, but you began to keep it regularly in 1852, that is what you say?—Yes. Q. When is the earliest time you recollect keeping a diary at all?—I used to make notes in a book from time to time. Q. As far back as Stonyhurst?—No, I do not think as far back as my first days at Stonyhurst. Q. Your first days—no ; but I say at any period during the time you were at Stonyhurst did you keep a diary?—I believe towards the latter part I did. Q. Then may I take it you kept it intermittently onwards, and then in 1852 you began to keep it regularly?—Yes. Q. That is a correct account of it, is it? I may take it you left Stonyhurst in 1849?”—That is a mistake of the Solicitor-General’s ; he left in 1848—“ Should I be wrong in saying you began to keep a diary, from time to time, as far back as 1847 or 1848?—About the year 1848, I think. Q. What did you keep your diary in at that time—pocket-books, or special diary books, or what?—No, I think I used generally to put a note in a pocket-book and then transfer it. Q. And what did you do with your diaries?—I am sure I do not know what became of them? Q. Did you leave them behind when you went away to South America?—I do not know ; I have not the slightest idea what became of it? Q. You took no heed?—That is to say, I do not know what became of them. Q. You did not take them with you, I suppose?—I think not. Q. Have you seen them since?—No, I think not. Q. Have you looked for them?—I do not think

I have even thought of them. Q. You cannot tell me whether they were left with Lady Tichborne?—No; they were not. Q. With the relie and the other things?—No; they were not. Q. Then can you tell me, as you know they were not left with Lady Tichborne, where they were left?—To the best of my belief they were left with Mr. Gosford. Q. Left with Mr. Gosford?—Yes. Q. To the best of your belief?—Yes. Q. Did you ever ask him for them?—I tell you I have never even thought of them until you asked me a question about it.”

This you see is virtually an admission on the part of the defendant that there were diaries. He would know it of course if he is Roger Tichborne, but he might also know it from the circumstance of the diaries having been preserved and his having seen them. They were not left with Gosford if we may believe Gosford's positive assertion. Gosford denies that these diaries were ever left with him at all. What became of them? A man who keeps a diary keeps it for the purpose of being able in after-life to revive his recollection of past events by referring to minutes he himself has made. He does not therefore destroy the record which he has thus purposely made. When Roger Tichborne was going away from this country, while on the one hand he would not think of taking diaries of that kind with him to the distant country to which he was about to go, he certainly would not on the other hand destroy these memorials of his past life; he would preserve them somewhere. Whom would they be likely to be left with? Probably with father or mother, and more likely with the latter. He went three times to Paris in the last four months of his stay in England, and it is very probable that he would take over there his papers and documents and things he had any regard for. Or he may have left them with some one here. Or he may have carelessly left them behind and they may have fallen into some one's hands. They would have no interest for anybody except for the immediate and near relations of the man who had gone away, more especially if he had had the misfortune to perish; and therefore in all human probability those documents, if not left with mother or father, but with any one else, or if they had fallen into any one else's hands, would be handed over to the father or mother. If they were left with the father, when the father died, they would be taken possession of by the mother: if left with her, they would naturally be preserved as precious relics of the son whom she had lost, or whom, if not lost, she hoped to see again. Therefore if diaries were kept by Roger Tichborne, there is nothing irrational or extravagant in supposing that those diaries were preserved, and if preserved, as the papers of Lady Tichborne came into the defendant's possession, there is nothing irrational in supposing they may have found their way into the defendant's hands. If that should

commend itself to your judgment as a thing likely to have happened, then we might find in the fact of those diaries having been preserved and having got into his hands, the solution of more than one difficulty over which at the present moment mystery hangs, and which we have not, through the evidence, the means of explaining and clearing up. It is only a possibility, I cannot say that it is a conclusion at which you must necessarily arrive. It is only one which I suggest for your consideration as capable of affording a solution of some of the difficulties by which this case is surrounded.

ONE HUNDRED AND SEVENTY-NINTH DAY.

Friday, February 13, 1874.

THE LORD CHIEF JUSTICE: Gentlemen, I mentioned to you yesterday the different sources of information from which it appeared to me possible that the defendant might have obtained some assistance. Whether he did, for the purpose of preparing for his examination in Court, have recourse to the documents to which I have referred, or to the information which the people by whom he was surrounded could furnish him, is, of course, only matter of speculation. He himself denied on his cross-examination that he had made any preparation for his examination at all, but then he was met by a letter to Lady Tichborne of the 28th July, which certainly would point to a different conclusion. It seems that he had made some engagement either to see her or go to her, which he did not keep, and he writes:—My dear Mamma I did not go yesterday as I expected. was surprised to hear that you was at Mr. Norris.”—that was her attorney—“if I had known it I should have been there to. I was quite close by. I shall be in London all day to morrow preparing for my examination on Tuesday. so I am affraid my dear Mamma I shall not see you until Wednesday. I would not send another nurse”—This relates to another matter, but there are words here to which it is necessary your attention should be specially directed—“I would not send another nurse until you see me. It appears Elizaberth”—not “beth”—“did not write the letter. so Mary says. But I have the letter. and she wrote one to you. so we can compare them and see. the Children are all quite well, as I hope My dear Mama you are. I will write again to-morrow.” You remember Arthur Orton’s way of writing the name “Elizabeth.” The defendant spells the word in the same way not only in this instance, but also in an affidavit which he drew up with his own hand. Of course it was

copied in right when the clerk came to copy the affidavit, but in the draft itself, which is in the defendant's own writing, it is spelt in that way. That will be an important circumstance when we come to the Orton case, which we are fast approaching. Then he is cross-examined as to having prepared for his examination, and he declares he did not. When that last letter is shown to him for the purpose of proving that he did, he says that was merely an excuse to his mother to explain why he did not come to her. Beyond that I do not know that any great importance attaches to it.

Gentlemen, on this preliminary examination, the defendant was cross-examined and re-examined. I do not propose, in the present stage of this inquiry, to go into the subjects on which he was examined, or the answers which he gave; because all that will more properly find its place when we come to see what were the tests applied to the defendant to try his knowledge of the life of Roger; and I shall therefore reserve the observations I have to make upon that till I come to that part of the case; but there are one or two things connected with his examination, which took place on the 30th and 31st July, and the 1st August, 1867, which require a word in passing. This was the first occasion on which the defendant appeared in public, and the first occasion on which any member of his family whom he had not sought, or who had not sought him, had an opportunity of seeing him, and they were present in considerable numbers on the occasion. Lady Doughty was there; Lady Radcliffe was there, who had already seen him; Mrs. Washington Hibbert was there, who had not seen him; Mrs. Greenwood was there, who had not seen him, as well as her husband, Colonel Greenwood. Then there were the two Messrs. Seymour, one of whom had seen him and the other had not, and there were four officers of the Carabineers. All those witnesses say that the defendant failed altogether to recognise them, and a great deal has been made out of that on the part of the prosecution, naturally enough, on the ground that it was an extraordinary thing that Roger Tichborne should be there in the presence of so many persons with whom he had been familiarly intimate and should not recognise them or take the slightest notice whatever of them. Well, the force of that argument depends very much on the meaning to be attached to the word "recognise." If by that was meant taking outward and visible notice of them by going up to them and bowing to them, or proposing to shake hands, or offering any of those signs of recognition which are customary between people acquainted with one another, I do not feel the force of it, because I quite agree with what the learned counsel for the defendant said: I do not think that, looking to the peculiar position in which the defendant was placed at that time, it was to be expected that he should seek any recognition outwardly from these

parties. He knew perfectly well, at all events as regards the Messrs. Seymour and the members of the Tichborne family, that they disbelieved in him, and looked upon him as an impostor. And I must say I do not think a man can be expected to go up to people in a public room, where there are a number of persons present, and stand the chance of meeting with a rebuff, which would in all probability have been the case if he had gone up to speak to Lady Doughty or to speak to any of the others. They would have said, "We know nothing of you." Therefore, I do not think that argument has much weight. I quite agree with what Dr. Kenealy said about that. He also said it might have been pride, and treated it as the feeling of a proud man who would not stoop to ask recognition from persons who he knew were adverse to him. I should be more inclined to accept the explanation on the lower ground, which is, that he was not called upon to expose himself to the mortification, which would probably have attended such a proceeding on his part, of meeting with a repulse in the face of the persons assembled. But there is another form of recognition which perhaps may apply in this case. You may go into a room full of people, and may see some one there with whom you are perfectly acquainted, but with whom you are, from some circumstance or another, not on speaking terms. I take it, that if, under such circumstances, your eyes met, you would be perfectly conscious of the presence of the person whom you knew but did not desire to speak to, and he, in like manner, would be perfectly conscious of yours. There is a sort of look which comes over the face, a look of the eye, which tells you whether you are known or not. Several of those witnesses say they looked at the defendant, and he looked at them, from time to time, while this examination was going on, and there did not pass across his face the slightest sign of recognition. Amongst others, Mr. Alfred Seymour tells us that he went into the room before the examination began; that he was in the room ten minutes, looking the defendant full in the face, standing opposite to him, so that he could not fail to see him, and that his strong impression is that the defendant had not the most distant knowledge of him; and so with one or two other of the witnesses. Now, if that was a failure of recognition on the part of the defendant, I should think it a circumstance well worthy to be taken into account; because I should hardly suppose that Roger would find himself in the presence of persons with whom he had been so intimate, his own relations, and that there would not pass over his face some indication of his knowing they were there, although he might not choose to speak to them. With regard to the officers, perhaps the remark I made in the defendant's favour does not so strongly apply, and for this reason, he could not tell at that time whether they were friends or foes. He had two opportunities of

recognising them, even if it were only in the most formal manner. First, after the examination was over, as he was going down stairs to hand Lady Tichborne to her carriage, he passed the officers standing on the staircase, and they all say—there were four of them, General Jones, who had been the colonel of the regiment, Major Phillips, who had been riding-master, Captain Fraser, who had been quartermaster, and Captain Polhill Turner, who had been captain of the troop in which Roger was lieutenant—they say he passed them and took no notice of them whatsoever. His explanation is that he knew at that time they were his enemies. How he should know that I am not aware. They say they followed him downstairs, and while he was handing Lady Tichborne into her carriage they passed, and then stood to let him pass them again; and again, when he was going in the opposite direction, they met him full front, looked him in the face, and he showed no sign whatever of recognition. It may be that they were mistaken in the fact; I only give you their evidence.

I pass on from that examination for the present to the correspondence, and I come now to a letter to Lady Tichborne of the 5th Sept., 1867. “I did not write again yesterday as I promised. But I hasten to do so this morning Mr. Cooke the gentleman I mentioned in my last letter as just started. He goes to Ireland to morrow his Friends live at Clonmel. He has been away twenty nine years and as only written home to his Friends twice in all that time. and they dont know he is on his way to see them now.” He seems to have been another of those persons who go away to Australia, and do not communicate with their friends. Bear in mind that this Mr. Cooke, the gentleman who you will find in the course of the correspondence had become intimate with the defendant, was a gentleman who was acquainted with the Kelletts and Captain Sankey. I am not sure whether he was connected with them, but he was so with people who lived in their immediate neighbourhood; so that when he came back, as he did after some months, and stayed with the defendant again, he would come back with the full recollection of the Irish friends and neighbours of his family, and of Captain Kellett and Sankey, and so on, and would talk about them, whereby the defendant would acquire, if he had not before acquired, some knowledge of those parties, and thus, when he saw Captain Sankey would be able to converse pretty familiarly with him about those friends and persons, and strike Captain Sankey, as he appears to have done, with the extent of his information on that subject. “I hope my Dear Mamma you will not drink any Water at paris, if you do it will be sure to make you bad.” That certainly is not the expression of a person of education. “I hope, my dear Mama you will send me your Address at Pau So that I can write direct to you.

I seen Mr. Holmes yesterday. And we arranged to meet Mr. Cooke in Ireland in the End of September. Mr. Holmes wanted me to go down to Eastbourne and stay a week. But I declined I should very much like to go to Calias"—by which I suppose he means Calais—"for a month I think it would do me more good than going to Hampshire. for I am thrown into so much temptation there. Poor Little Agnes was very unwell this last two nights. I think She was suffering from her double teeth. She is A great deal better this morning. Dear little Roger is quite well and laughs at every one he see now. I hope we have no truble with him in his teething. My dear Mamma I have not yet received any letters for you. from Mr. Savare or in fact from anybody It very strange if he wrote. that the letter did not come. praps he sent it to Dorset Street. I wish you would ask him my dear Mamma. where he directed it to. So that I can make some enquires about it."—The final syllable of enquiries written "res."—"I have not heard any think from McKennel yet. he promised to write last Saturday. But he has not done so. I think my dear Mamma it would be best to have nothing further to do with him. I would call on him myself. only I am forbidden"—written with one "d"—"to leave the House for a few days. My Tailors address is 100 North End Croydon. His name is Lodge. I dont know my dear Mamma why you wanted it but I have sent it. Mr. Hammond called on me yesterday and told me he would have to take proceedings against me at once for his Bill. He said that when he went to you. you refered him to Mr. Holmes. and when he went to Mr. Holmes he refered him to you and he was agoing to put up with it no longer. I dont know what I am to do."—Now look at the rate at which people were plundering him—"I must give my Bill. a Thousand for one hundred and fifty. I suppose. It really very A normous. But it cannot be helped. It will play the duce with me after I am in"—then comes that unspellable word; it should be "possession," but it is here "pronssion."—"I have just given Rosa the house maid. Notice to quit this day month. I cannot put up with her sluvently ways. any longer. she seemes to get worse every day. Sarah the cook. is a very Good servant. and I am very lucky to have got her. she gives me no truble whatever. I hope my Mamma you will write me a long letter. for you see I am keeping my promise and writing you a long letter. every day. It very wet here and of cause it makes it very unpleasant. But we must not grumble at God's will. My dear Mamma I see they still are a going to try. the Bella plan. Mr. Holmes got a letter from one spy yesterday. He had seen the Men. who says. they were saved from the Bella."—What is meant by "one spy"—whether a spy of Mr. Holmes', or of the other side, with whom Mr. Holmes had got into communication, I do not

know—"who says, they were saved from the Bella. He asked them how it was they got wrecked at Cape Hatteras, when the boat was picked up near Rio He said that was easily explained, that a heavy Sea, struck the ship two days after they left Rio and swept"—without the final "t"—"the boat away. He forgot my dear Mamma that a part of the ship was picked up as well as the boat. All I can say my dear Mamma is that I hope God in his great mercy, will forgive those wicked people, that as persuaded these poor Sailors to perjure themselves for a few pounds."—perjure written with a "g"—"I mention this my dear Mamma. For I know that that person is above the ordinary Class of Life. And one who ought to know better"—I wonder to whom that would most appropriately apply—"My dear Mamma since writing the above, a gentleman has called on me who I knew in Melbourne. This gentleman says, that I was pointed out to him in Melbourne has a Son of Sir James Tichborne By Mr. Hodges, who was M.P. for Kent, and who I knew before I left England, when I was stationed at Canterbury. He says that Mr. Hodges pointed me out to him and several other gentlemen, who he named, and who I remember well. Now my dear Mamma if this is true Of course his evidence will be of great Value to me. I will let you know in my next, what becomes of it. I have just sent for Holmes But I am afraid he started for Eastbourne. Mary is quite well and joins me my dear Mamma in our Love to you. I feel very anxious to know my dear how you are do let us know in your next letter."

Then he writes to Mr. Rous on the 11th: "Dear Rous I have just received your kind letter. I am very sorry to hear your business is so bad. I hope it will improve before long. I am afraid my dear Rous the"—interest he should have written, but it is—"entree you have taken in my behalf has done you harm. But you may depend I shall not let you loose by that, I should have been down last week. Had it not been that I received some very important evidence, and had to telegraph for Holmes to come up from Eastbourne. I do not like to trust to paper So I shall reserve the pleasure until I come down. Both of the Rabbits you so kindly gave me are now heavy in young, And one of my others, had young this Morning. I saw Mr. Yates Sen. yesterday he was rather surprised to see me he thought he was going to see somebody else. I think by the way that he was surprised. I shall not say much about him. I shall let him tell his own tale. Lady Tichborne begs to be kindly remembered to Mrs. and Miss Rous and yourself. She very much wants to come down. But I cannot bring her well at present. I long to get away from this dull place. And have a day or two shooting. But I am afraid I shall not be able to get away yet. I think a month or two like this will put an end to all my troubles in this world, whatever they

may be in the next. But they cannot be much worse than this. I try to keep my spirits up but I cannot, I find. I begin to wander very much at times. I have no doubt another four month will find me in A Lunatick Asylum"—a curious way of writing lunatic—"it to be hoped not for the sake of my Friends has well as myself."

Then comes a letter of the 14th, written in an evil spirit certainly: "Dear Rous I received your kind letter I shall be sure to start on Monday or Tuesday, as I have an appointment with Mr. Bulpitt on Wednesday, (Morning). Please remember me to all friends. Mrs. and Miss Rous shall be sure to see you next week. I suppose you know I have one enemy the less in Harris death. my Enemy seem to go by degrees. Capt. Strickland who made himself so great with the other side went to Stonyhurst to see his Brother and died. A week before that he call on me and because I was not in he abuse me shamefully. So they will all go some day." Now, we learn from that letter, written, as I say, in a bitter and evil spirit, a fact that we did not know, and that is, that Captain Strickland, who had been the friend of Roger's youth, and on such intimate terms with him and his family, had declared himself on the other side, and was taking an active part against him, which we can only suppose, from a man in his position, must have proceeded from a conviction, on the part of Captain Strickland, that the defendant was not the man he represented himself to be. We should have known nothing of that, but for the passage I have just read to you.

We now come to an incident in the progress of the intercourse between the defendant and Lady Tichborne, which is not altogether uninteresting, and that is the design of the defendant to take a place in the neighbourhood of Alresford, called Itchen Abbas, "Abbas" being the old word for abbot, and Itchen being the river from which the place derives its name. The defendant proposed to take that place and live there instead of at Croydon; and, inasmuch as this would separate the dowager, when in England and living in London, from him, it made her very angry. The subject gave rise to the following correspondence. "Swan Hotel Alresford Hants Sept. 23rd/67. My dear Mamma I only received your kind letter on Saturday. I am staying down here shooting with Mr. Bulpett. I hope my dear Mamma you will not stay in Paris. The water is so bad. and will make you bad, and ill. I have been here since Wednesday. I have been out shooting every day since. I find it do me a great deal of good. I was never better in my Health in my Life. I received a letter from Mary this morning. She quite well as also the Children. My dear Mamma I think it would be as well. if I took a House down here. Inching Alys is to let. and I think it would suit me so much better than Croydon. I find I could live for half the money here. The rent is only 3. per week. And every thing is so cheap

here. to what it is in Croydon. and Inching Abys is so secluded. no Neighbours to annoy us. But I will wait my dear Mamma and take your advice on the subject. Croydon is a very dear place and takes every shilling from me. ware I ought to live on half the Money you so kindly allows me. Mr. Haping"—I suppose that is meant for Mr. Hopkins; if so, it must have been an accident in writing, because he knew Mr. Hopkins's name quite well—"Mr. Haping is agoing to try and rise"—which is the vulgar use of the neuter verb instead of the active.—"Mr. Haping is agoing to try and rise some money for me. I have been to dine with him and we talked the matters over. I hope my dear Mamma you have arrived quite safe. And I also hope my dear Mamma it will not be long before I shall have the great pleasure of seeing you again. If you do not like to come to England. I will come over and see you for a few days. I forgot to menshion I received the Cheque. many thanks my dear Mamma I have sent it away for to pay the Bills. as I am a week behind with them. My Friends here are still very kind to me. Everyone almost places their shooting at my disposal. or rather command. I hope my dear Mamma soon to have another letter from you. As it was very near a week. between the two letters. Mr. & Mrs. Rous begs to be kindly remembered to you. As also Col. Lushington and several other Friends. I am again"—you observe, where anybody else would use the word "going," he uses what with persons of defective education is the more common and vulgar expression "agoing"—"to call on Mr. Scott to-morrow. I have got my Horse here with me. But I find it very difficult to ride on account of being so stout. Now my dear Mamma all I have to say. is God Bless you. and I hope our Holy Mother will take care of you. no more at present from your affectionate Son, R. C. D. Tichborne." Upon that letter this observation presents itself: Itchen Abbas is within a few miles of Alresford, and a name which must be well known to Hampshire people, and the Itchen is as well known down there as the Thames is to a Londoner—a name Roger would be familiar with, and would know how to spell: therefore, it is remarkable that the defendant instead of writing Itchen Abbas should write it "Inchin Abys." We have another letter from him of the 24th. "My dear Mamma, I have just received your kind letter. I think my dear Mamma you will find several letters at Abble Salis waiting for you. I menshioned in one of my letters that I was about to take Inchin Abbas"—Here he has "Abbas" right, but the "Inchin" is still wrong—"I have now taken it. As I find it makes a great difference in my expenses. I can live here comfortably for ten pound a week. and it will serve my cause a great deal. as all the Gentry will call on me. I hope my dear Mamma you will not be angry with me for not waiting for your advice.

I Thought it would be better to take it at once. As other persons were after it. I intend leaving Croydon about Tuesday, so if you would not mind my dear Mamma I would like you to send me Thirty pound and deduct it from the next week. So that I can pay all the tradesmens before I leave. but I do not wish you my dear Mamma to distress yourself. I might be able to borrow ten pound from Mr. Bloxam. Bloxam is at Newmarket Races but he will be home on Friday. I hope my my dear Mamma you will not drink any water in Paris. it will be sure to make you bad. I have my Horse down here. and drive round and see all my Friends. I call to-day on Mr. Benson and Mr. Onslow. who received me very kindly. I have been out several day shooting with Mr. Bulpett. And I find it as done me a great deal of good. I certainly was never better in Health in my Life. Besides the exercise is making me a great deal thiner. I find I can walk eight or ten miles without difficulty. I have been over Ichin Abbas. to-day Mamma dear and it a beautiful place. I hope my dear Mamma. you will come and stay a few days with me when you come to England. Do not stay long my dear Mamma in paris I know my dear Mamma you will be ill. if you do. Please remember me to Abbe Salis. and to Mr. Savage if you see him. Hoping my dear Mamma you will write to me as soon as possible. I received news that the Children are quite well to-day. Carter has just come from London, and they are all quite well at Croydon. No more my dear Mamma except God Bless you and I hope he will watch over you. Good bye my dear Mamma for the present. I remain your affectionate Son R. C. D. TICHBORNE I have sent you a paper and you will find something about me." Then comes a letter from Lady Tichborne who, as I said, became much displeased at the notion of his taking this place: "My dearest roger, I am very sorry I did not hear from you this morning. I expected to have a letter from you. I am quite unhappy about it. I hope you have received my letter with the cheque for 15*l*. I wished you to come over to me, and that was sent for your travelling expenses, but now I think you had better not come as I mean to return to England at the beginning of next week, & it closes"—she is referring to the Exhibition—"next Monday, at least they say so. I regret my having taken this apartment for a fortnight, as the air does not agree with me at all; it is so sharp and keen. The Champs Elysées are full of English who like the open and bracing air, but it does not suit me at all. The Rue Montaigne is in the Champs Elysées or opens into it; therefore I think you had better not come this year, as I will join you almost immediately, but I do not like a house in Hampshire, my dearest Roger, as we should be at so great a distance one from the other. You know that I am your best friend, & I think it is better that I should be near you. Your house is nothing to do

with what you receive every week. And I pay it besides the 20*l*.; therefore your house has nothing to do with the 20*l*. All what is glittering is not gold, my dear Roger, and you must not believe that all those protestations of friendship are true, since nobody will lend you any money. I hear many things coming straight from England; & you would think as I do, that if we are not on good terms, your enemies will take advantage of it. I have just had your letter dated the 23*rd*. I am very sorry to find you have taken Itchen House so far from here"—She knows how to spell it—"And it is a great pity you value Mr. Hopkins's society more than mine, and I feel very much that notwithstanding all that I do for you, that you have taken that house away from me. I believe, however, that Mr. Hopkins is not your friend so much as I am, as he refused to assist you with money when I asked him to lend you some"—She put the trying test to Mr. Hopkins's faith in the claimant when she asked him to advance him some money; but Mr. Hopkins shook his head at that, and would not do it—"and I do not think that Mr. Bulpett is so much your friend as I have always been to you. I beg you to break it off, and not take Itchen by all means. I cannot think how you can hurt my feelings to that degree. It is a cruel thing to me to consider that I have given you so many proofs of my affection, and that you prefer Mr. Hopkins and Mr. Bulpett's society to mine, and wish you to break it off immediately, and not to go and live at Itchen, if you wish not to show yourself ungrateful to me. It will also have a very bad effect in the world, you being on bad terms with me, as I cannot help feeling very much the preference you give to your friends over me." One could not have better proof of the all-engrossing feeling of this lady towards anyone for whom she had affection; all their affection was to be centered in her, to the total disregard of everybody else. These persons had supported the claimant, had received him as Sir Roger, had countenanced him, and given him every assistance except that of lending him money; but he was not to rely on them, or have recourse to them, or rest on their friendship and assistance, he must be exclusively and entirely devoted to her. She continues: "As I have always been your best friend, and I am about the only one now, or at least I am the sincerest, but I beg you to break it off at any price, and to give up the thought of going to live at Itchen, if you care for me, which is, I am afraid of very little consequence to you. And if there is another person about it, you must let that person have it, and you have only to tell your friend Mr. Hopkins to arrange it for you, or to Mr. Holmes, but I should think Mr. Hopkins being on the spot is more likely to do it for you, as you must not live at Itchen at any price. I am going back to London immediately. I cannot send you the 30*l*. you ask me, and have sent you 15*l*. yesterday, and I am

going to send you the 20*l*. to pay your weekly bills. I cannot do more. Remember to let that other person have Itchen who wishes to have it, and to give up the thought of living at Itchen away from your only sincere friend. H. F. TICHBORNE. The last word between you and me is repeated and go over to your adversaries, and when they know we disagree, of course they will be very glad. Your adversaries will take it as a proof against your identity, your despising my society and preferring your Alresford friends to me. But you must get rid of Itchen at any price."

Well, of course after such a letter as that there was no alternative but to give up Itchen Abbas. No doubt looking simply to the character of Roger Tichborne, we should say that Roger would have flown in his mother's face if she had written him such a letter as that, and would have told her he was old enough to take care of himself and judge of his own affairs, and would have requested her to leave him to act on his own judgment. But I cannot say that Roger in the position of the defendant must be expected to have done that, because to him, circumstanced as he was, her recognition was everything. If she had flown off from him and said, "Well, do the best you can for yourself; if you do not choose to comply with my wishes, look out for yourself," that would have been fatal, and I do not know that we can apply the test of Roger in independent circumstances to the defendant in the circumstances in which he was placed relatively to Lady Tichborne. He writes back, "My dear Mamma I received your very kind letter this morning. I am very sorry. my dear Mamma. that I did not wait for your advice about the House in Hampshire. But you must have received a letter from me since you posted the letter I have received in which I mentions that I had already taking Itchen Abbas."—He has now learned from her letter how to spell it right.—"I am very sorry my dear Mamma to have done anything that you do not approve of. But you see my dear Mamma I had already taken it before receiving your kind letter. I am also sorry I cannot come over to Paris on account of removing. I cannot have this House after the 7th of next month. I shall not go to Itchen Abbas now until I hear from you again, which I hope I shall do very shortly. I am very much annoyed my dear Mamma to think I have done anything contrary to your wishes. But what can I do now. I cannot brake my word"—that word "break" occurs in several places, and it is always spelt "brake"—"It would be the talk of Hampshire. For it got all over Hampshire that I am going to live there. I shall feel very miserable until I hear from you again. For God knows my dear Mamma. I would not do anything to offend you if I knew it. I hope my dear Mamma that I shall soon see you. if I was not to be here my dear Mamma when removing. I should lose half the little things I have. I wish my dear Mamma you had let

me known, about going to Paris before. and I should have arranged things accordingly. I could start from here on Saturday week. that would be in a week from now. Bogle is also very ill. but is getting better. You dont know my dear Mamma. how miserable I feel through not being able to comply with your wishes, and more so as I wished very much to see Paris again. I received the Cheque for Fifteen pound. many thanks my dear Mamma. I shall keep that for the purpose it was sent. I received the 20 cheque you sent me every week my dear Mamma. except this. I think my dear Mamma I know an office. that will advance me the five thousand pound. It will be through Mr. Hopkins. the same office that he rose"—again using the neuter instead of the active verb—"the same office that he rose the 37 thousand pounds from. Mary and the children are quite well. dear little Agnes still enquire after you, and Roger Joseph is growing a fine Boy. It now post time. my dear Mamma. So I must say God Bless you. and good bye for the present. From your affectionate and beloved son, R. C. D. TICHBORNE." There are here fourteen "mammams" in thirty lines only—a very considerable sprinkling of that mode of address. Now, on an expression in that letter, the learned counsel for the defendant founded a singular argument. Desiring to disparage Mr. Holmes, who, no doubt, has ceased for a long time to be the friend, as he has ceased to be the legal adviser of the defendant, the learned counsel seized on that observation of the defendant—"The same office that he rose the 37 thousand from—" and said, "Here is Mr. Hopkins raising 37,000*l.* for the defendant; Mr. Holmes had it all, and here, as early as the 21st September, 1867, all of it is gone. No wonder," says he, "that when Mr. Holmes had sucked the orange dry, he cast the peel away." So he accounts for Mr. Holmes having abandoned his client's case. Now, that was perfectly impossible. We know that the defendant had not, at that time, raised 37,000*l.*, though he succeeded in raising a large sum from first to last; but as to the large sum of 37,000*l.* having come into Mr. Holmes's hands, and his having spent the whole of it, still having, as we know, a bill for 5,000*l.* for his costs—if this had been true, Mr. Holmes was a man who ought to have been expelled the profession. But when we came to enquire, it turned out that the learned counsel had not even asked his own client; and the moment I interposed, and said that if this were true, we must know more about it, and what had been done with the 37,000*l.*, the defendant himself set his counsel right. My learned brother reminds me that he did not set him right until we insisted on the matter being enquired into, and said we should give time to ascertain at what office this money had been raised, and what Mr. Holmes had done with it. Then the defendant said: "No, no; that is not what I meant at all. You have got that wrong. What I meant was the

money that had been raised by Mr. Hopkins under the settlement of 1850. The money had been raised for the purpose of satisfying the requirements of that settlement. It was not money raised for me since I have been in England:" and so that was set right.

One cannot but blame the recklessness of a gentleman of the bar, who, without waiting for a word from his own client, which would at once have set him right, makes a charge against a professional man of having misappropriated the sum of 37,000*l.*, besides still having a claim to the amount of 5,000*l.*, and makes that charge without the slightest shadow of foundation. That is but a sample of many occasions on which in the course of the defence character has been calumniated (I can use no other word); and for interfering with the learned counsel in the use of such accusations and calumnies, we have been charged with having invaded and interfered with the liberties and privileges of the bar. My learned Brother Lush reminds me, too, that that explanation was not given until we had declared that we must have a further inquiry into so serious a matter, and the Court had adjourned for luncheon; and it was not until we came back into Court that the admission was made by the learned counsel for the defendant that there was no foundation for this charge.

The defendant writes to Lady Tichborne again on the 30th September, and it is quite clear that at this time he was labouring under pecuniary difficulties, and wanted to raise money, and could not get it. "My dear Mamma, I was much disappointed at not having received A letter from you this morning. I start this afternoon for Hampshire. Mary and the children go with me. Mr. Holmes was also going. But cannot on account of Mrs. Holmes taking bad."—One cannot conceive worse grammar—"He will follow me down tomorrow or the next day. Of course my dear Mamma. I have not taken Itchen Abbas. I cannot imagine my dear Mamma, what made you write that letter to Mr. Holmes"—I gather from this that, in addition to writing the strong letter to the defendant which I read to you just now, Lady Tichborne must have written some strong letter to Mr. Holmes. "You must have been well aware, that I should do nothing against your wish. I am taking Mary down for two or three days. she so anxious to see Tichborne that I should have had no peace if I did not."—the word "peace" being written, as if it were "pea" in the plural number—"I hope my dear Mamma you will let me know as soon as you arrive, so that I can come and see you. I am beginning to get very tired of so much worry. I cannot say what I shall do with myself yet. I wish my dear Mamma you was here to give me your advice oh how much happier it would have been for me to have remained in Australia my dear Mamma only for the pleasure and comfort of

having you near me. and seeing you again. I had a very severe fit of spasms. at Mr. Holmes the other night. it was a struggle with me for life and death. for about five minutes. But I have not had them since. My dear Mamma I hope you will write as soon as you arrive. so that I can come and see you. I hope you have seen Mr. Savage. I have seen Mr. Colmridge and like him very much. I shall be at the Swan until Thursday. and then. if you do not arrive before. I intend to go to Worcestershire from there to Bath. I should very like to see you before I go So of course will come up if you arrive. I am very dull and cannot write any more today. So good bye my dear Mamma for the present. I remain Yours affectionate Son, R. C. D. TICHBORNE." On these letters the defendant was asked this not unimportant question. "Now, just tell me how you came, as you were a Hampshire man, not to know about Itchen Abbas? It is not above a mile and a half from Tichborne?—More than that. Q. How much, two miles?—Over two miles. Q. And you had known it all your life?—Who said I did not? Q. How came you to spell it Inching Abys?" The answer is, "There is no accounting for my spelling." Q. I do not take an ordinary thing: you knew this place all your life, 'Inching Abys'; you have known it all your life; how came you to spell it so? In the second letter you got the Abbas right, but the Inching remains the same?—LORD CHIEF JUSTICE BOVILL: I took it down as Inching Abbis. The SOLICITOR-GENERAL: Abys, my Lord. Q. You cannot tell me. Am I right in supposing that you got Itchen Abbas from Lady Tichborne's letter?" He answers, "No." But he does not give any further explanation of how he came to spell it wrong at first. It certainly is open to observation, and the Solicitor-General so implied by the question, that one who, if Roger Tichborne, had known Hampshire so many years of his life, should not know how to spell the name of a place connected with the river on which Tichborne House stands, and the name of which is of course known to everybody in that part.

Then on the 1st October he writes to Lady Tichborne from Alresford:—"I received your very kind letter this morning. dated the 27th Sept. I wrote to you yesterday. before I started I do not remember if I mentioned receiving the 20l. cheque. I received it last Saturday. Mary and the children are here with me. We have been very well received here. They gave us a long and merry peel from the Church Bells"—He spells peel with an "e" instead of an "a"—"We have been all over Tichborne House today. and a great many of the neighbourhood have call on us. Mr. Holmes was coming down here with us But Mrs. Holmes. took ill just as we ware starting. I have not heard from him to day. But expect him here tomorrow. Of cause my dear Mamma. I have got out of taking Itchin Abbas. I am agoing from here. to

see Captⁿ Sherston and Custance in Worcester. But will try and be in London by Saturday. Mary will return on Thursday evening. My dear Mamma, it is very kind of you to write to Mr. Lodge has I was affraid he would give me some truble. My dear Mamma I think I have an idea where I can get the money advance me. I will tell you all particulars. when you come. I do not entend to let Mr. Holmes know anything about it. God Bless you my dear Mamma. I am sorry you Judged me so hastily before. for you see I only did what I did subject to your approval. I remain my dear Mamma your Affectionate Son R. C. D. TICHBORNE."

He starts from London to go down to Poole. On his way, he passes through Salisbury. He writes to Colonel, now General Custance, who was one of his witnesses on the former trial, but who has not appeared before us on this. "Dear Col Having to go Bath I thought I would take the opportunity of calling here to see you and Capt. Pinckney. and I am sorry to say I find you both live a long way from here. my engagement in Bath compels me to be there early. So I must start by the first train in the morning. I shall be back on Saturday about ten a.m. And should feel much obliged if you could spare time to drive over and see me. As I have to start on Saturday afternoon for Poole. And I should very much like to see you both. I have wrote and asked Capt. Pinckney to come. Hoping dear Col. Custance I shall have the pleasure of seeing you on Saturday. I remain truly yours R. C. D. TICHBORNE." I call attention to that letter, as showing that at this time, the 9th October, he was on his way to Bath. It will not be unimportant to bear in mind by-and-by, when we come to what he said about Bath in connection with Roger's visit to Bath in the spring of 1849, that one of the places the defendant visited was Bath. In the month of October he gets back to the Swan, and writes to Lady Tichborne on the 13th of the month:—"My dear Mamma I am afraid you will never forgive me for not writing so long. I have been traveling every day this week. and have not been one day at one place. I have not received a letter from you since I wrote to you last. I told them to send my letters to Poole as I expected to be there yesterday. But Col. Custance and Captn. Pinckney keep me so long I could not get away. I forgot to mention they have made an affidavid So I start on Tuesday morning for Poole. I hope my dear Mamma you have got better of your caught"—That is a curiosity in the way of orthography, or rather want of orthography; cough is spelt "caught"—"you have got better of your caught and cold. I have not heard from my wife or children since I left croydon. I feel very anxious my dear Mamma to hear from you. I was at Winchester yesterday afternoon. I stayed at the George for about two hours. Mrs. White"—that is the landlady—"Mrs. White

begs to be remembered to you. she a very nice person. There are many things my dear Mamma I wish to speak to you about. so I hope I shall soon have the great pleasure of seeing you in England. Its reported about Winchester. that you refused to pay a quarters rent of Itchin Abbas. for me of course it some of Bowkers tricks. I will make a Bowker of him before I have done with him"—I do not know what he means by that. I never heard the expression before—"God bless you my dear Mamma and our Holy Mother protect you. From your affectionate Son R. C. D. TICHBORNE."

He next went to Poole, and there we know he succeeded in obtaining the adhesion of several people who afterwards became witnesses. He writes from Poole to Lady Tichborne: "London Hotel Poole Octb. 14th /67. My dear Mamma I have only just received your kind letter with the cheque enclosed. My dear Mamma you will think it ungrateful of me not writing before. But I did not know ware you would be. I wrote to you last night from Alresford To your address in Paris. I was travelling all last week. and you know yourself My dear Mamma how awkward it is to write when you are not stationary. I have been very successful in my tour. I have seen Col. Custance and Capt. Pinckney They have each made an affidavid and Col. Custance a very strong one. A very strange thing happened when I arrived here. I got out at the train, and an old man looked at me. and walk up and said how do Sir Roger, he knew me in a minute and nobody knew I was coming. For I even wrote to Mr. Holmes and told him that I was not agoing to Poole until Wednesday. I hope my dear Mamma you have got better of your Cold: And be very careful not to sleep in damp sheets again. I hope to be very successful here and then. my dear Mamma. I shall be on my way to see you. I hope my dear Mamma you will go and see my dear Children. And let me know how they are. I have not heard from them since I left Croydon. I hope my dear Mamma you have arrived safe. and that you will write to me at once. so that I may know ware to send my letters to you. I will send this one to Croydon. and write to Bogle to forward it to you. I will come up to see you my dear Mamma as soon as I know you have arrived. Hoping my dear Mamma you are well and that I shall soon hear from you I remain my dear Mamma your affectionate son R. C. D. Tichborne." Here in twenty-four lines he has no less than nine "dear mammas."

He gets back to Croydon, and thence writes a letter which in the case we are going to inquire into presently, the Arthur Orton case, will be found to be important: "Oct. 20th 67. My dear Friend Rous I am very sorry that Vagabond of a servant of mine. should have given you any abuse. I only received your letter after I wrote last night to you. I have not seen him since I discharged him at

the Station. I shall never employ him again that's certain. We find the other side very busy. With another pair of Sisters for me one of them been to see Mr. Holmes. they had been three days at them. and they are quite sure of success. Only there is this difference which they cannot make out. The brother of these young Womans is dark and very much marked with smalls pox. very much about the face. But they are still very sure I am him. I wonder who I am to be next. The man they think I am is still living at Wagga-Wagga under an assumed name"—Arthur Orton had not, therefore, you see, arrived either at the time the defendant went down to Wapping, or in the interval, so far, at least, as the defendant was aware; because he states here on the 20th of October, many months after he went down to Wapping, that this man, "the man they thought he was, was still living at Wagga-Wagga under an assumed name." He adds, "I suppose this accounts for the Independents of George Greenwood." I must call your attention to the passage, "The brother of these young Womans is dark and very much marked with smalls pox." That is his account of it. But the witnesses, called here on the part of the defendant with reference to this part of the case, and who say, what a great many of the witnesses do not say, namely, that Arthur Orton was marked with the small pox, agree in saying that if marked, he was but slightly marked. Therefore the defendant's description of him here must be incorrect. But there is another and still more important observation which arises on this head. The defendant here gives a description of Arthur Orton's face. Of course, if anybody could give a description of Arthur Orton, the defendant could give it much better than the witnesses who had not seen him as late as he tells us he saw him—as late as 1866, at the very time he was making his will at Wagga-Wagga; and therefore he must have retained, especially after all that long intercourse in the bush, on which his counsel dwelt so earnestly, a recollection of the face of Arthur Orton. He gives a description of it, and he refers to the marks of the small pox, but says not a single word about the scar. The scar is introduced by the defendant's witnesses for the first time. The defendant has given his own description of Arthur Orton, and made no allusion of any sort or kind, direct or indirect, to this scar, and he says that he is a dark man, whereas every witness called with reference to the Orton part of the defence, has been called for the purpose of saying that he was a fair man, having fair hair, and therefore could not be the defendant. "I suppose this accounts," he says, "for the Independents of George Greenwood"—that is Colonel Greenwood, a distinguished officer, a gentleman who ought not to be spoken of by anybody, certainly not by Roger Tichborne, in any other than the respectful way in which you would speak of a gentleman and an officer, a man of standing

for years in the army. He continues, "They say I was born in Wapping. I am glad they have found a Respectable part of London for me. I never remember having been there. But Mr. Holmes tell me it a very respectable part of London. Lady t. begs to be kindly remembered to Mrs. Rous and self."—"I never remember having been there"—I must ask you to consider if you think he could have forgotten the visit he had paid to Wapping by night only ten months before.

On the 23rd he writes to Rous—"My dear Friend Rous, I am affraid I cannot come to Hampshire for some time. Somebody has been amuseing themselves by telling Mamma a whole lot of lies. And she will not consent to me going again for some time. I wish you to send the Horse Mr. Onslow sent for me upon Friday and I will meet him at the station myself. The Mare is rather to fresh for me. and she is not a good Hack. I should like you to Telegraph and let me know by which train you will send him. I can then take him out every morning for gentle exercise myself. You need not pay for him at Alresford. I can pay at Waterloo. I am very near dead for the want of exercise. I suppose you have seen that paragraphs in the Australian paper It very nice indeed. There is no doubt it some of the MacKenzie work." He is referring here to Mr. McKenzie, the agent sent out to Australia to work up the case. You have the characteristic omission of the auxiliary verb twice running. "Of course knowing it not true. I care very little about it. We have bought up all that we could get in London. some six hundred copies to prevent them getting about. We have also sent out Instructions to Counsel there. to take proceedings against them. I hope my dear friend to see the day. that I can tell them the truth from lies. Tell Hasted to send about the same quantity of meat for me. But none for Mr. Holmes. His Butcher has lowdered everything a penny a pound. Mrs. Holmes was confined of a fine son last night. Mother and child both doing well. My wife sends her kind love to Mrs. Rous and the children. Hoping my dear Friend you are well, I remain Yours faithfully R. C. D. Tichborne." There is another letter to Rous of November 3rd; but there is nothing very important in it. He says: "I received your kind letter yesterday I am afraid I shall not be able to come down. Holmes wants to hurry me here & there—and he hurry me till I in my grave—I don't think he believes I was ill at all. I enclose A photo of my Wife for Mrs. Rous. it not a very good one. I believe she intends to get a large one done for her. She joins me in our kindest regards for you both and your daughters and sons and believe me Yours faithfully R. C. D. Tichborne."

On the 11th of November, having been down to Brighton to see Colonel Sawyer, also a former witness for him, but who has not

appeared on this trial, he writes:—"My dear Mamma I have just returned from Brighton. I am very sorry I was not at Home, when you came yesterday. But its so nesenary that I should get all the witnesses I can I saw Col Sawyer at Brighton yesterday and he was very glad to see me. I do not wish you my dear Mamma to tell any one that I have seen him yet. As I have not yet got his Affidavid, he was out Hunting to day and will sign it to morrow I have not been home long, or I should have come up to see you to night." There is nothing further in that letter. Then he writes to Rous on the 9th December, 1867. "My dear Friend I received your kind Letter this morning. I am very glad to be able to contradiet that Winchester report. For I have been very well this last few days, last Thursday night. I was taken very bad with the spasms, but I dont think you heard of that, for it happened in a place ware I was not known, and I never spoke about it to any one. They remained on me for about half an hour, of course I feel no effect of them after they are past, except a little weak. I think we start for Ireland on Wednesday morn, my throat is still bad, but I take no notice of it. Dont mention about our starting for Ireland to anyone but Mrs. Rous. For I dont want the others to be before me. Lady T. sends her kind Love to Mrs. Rous and your Daughter. I received a Letter from Tugwell he Dont wish Mrs. Tugwell to make an affidavit. So it dont matter. I will write to you, almost every day and let you know how we get on. Please give my kind respects to Mrs. Rous. I had no time to say good bye. Will you tell Hasted not to send any Veal, at any time." Then comes a singular piece of composition: "Theirs nobody in my house eat it. I should like some Pork when he has it small. I dont like large Pork, please tell him to send his Book. I want to send him a cheque Dont forget the affidavids. No never mind. I forgot. They are all being printed. I can get them then try and get up for a day or two when I come back if you can. Please remember me to all kind Friends."

Therewith ends the correspondence of 1867, and we come to the year 1868. On the 21st January in that year he writes to Mr. Rous:—"I saw Mr. Holmes last night he was sorry he did not see you, before you went away. I have arranged with him, that you go with us to Colechester with Francis and after that you and me goes to Ireland by ourselves. I am only waiting to get rid of my Cold and then we will start. Mr. Holmes only received one Letter from Melbourne and that stated the people was all mad about Prince Alfred arrival. There is one thing that I am sure of the man who wrote the letter was drunk for he could not spell neighbourhood"—Well, if inability to spell "neighbourhood" necessarily carries with it the imputation of drunkenness, I think I shall be under the neces-

sity of pointing out further on that the defendant must on one occasion have been drunk too, for he afterwards gets the word "neighbourhood" to spell, and he spells it wrong. No very great importance attaches to the spelling this one word wrong, but that is what he says. He adds: "Do not let any one know of our going to Ireland on any account. As we shall have some company, and that we don't want." There is nothing more of importance in that letter.

In this month of January, the defendant goes down to Colchester, where I think there was a detachment of the Carabineers, and having done what he had to do at Colchester with the Carabineer soldiers there, he goes over to Yarmouth, and from there writes to his mother:—"My dear Mamma We came here from Colchester to day. I was very fortunate in getting four affidavids this morning before we left. They are made by men of the 6th D. G. Poor fellows was very glad to see me. They have made their affidavids very strong. After I had done with them. I had a look round Colchester. at the Castle and Camp. Its a very clean Town. and I was much amused with what I have seen. I cannot say anything about Yarmouth for it was nine oclock before we arrived, and quite dark. I write to night because the mail goes at eight to morrow morning. I have not heard if the Gentleman I have come to see is here or not yet. I will write and let you know all about it to morrow." Now comes a sentence which one is almost ashamed to read out in open court, but we cannot help it. These things will happen on trials, and we may now and then have a piece of evidence which one would rather not have occasion to refer to, but we cannot help ourselves. Here is the passage I am now about to read to you, and you will judge for yourselves whether a man who had been brought up as a gentleman, as Roger Tichborne undoubtedly was, and who was used to the decencies and refinements of life, could have penned this passage when writing to a lady, his mother: "I have just sent Mr. Rous out to get me a pill for I have not been to stool since the day before I left Croydon." In the first place, you know, as it was not any serious indisposition, there was no need to write to his mother at all on the subject; in the second place, if he did, could a man with any decent education write to a lady in language so coarse and offensive as that which the defendant uses here? The learned counsel for the defendant says, "Oh yes, but it is in perfect keeping with Roger; he had quite as coarse a mind, and was capable of using quite as coarse an expression; for when Lady Doughty writes to him, or his mother writes to him, saying she had heard he was ill and anxiously inquiring about him, he writes: "It was nothing at all serious; my stomach was out of order." To my mind there is just all the difference between the two phrases; the one is a phrase a gentleman might use in writing to a lady, the other is not.

There is no vulgarity whatever in the one; it is only what you would say to a person who said she had heard you were poorly: "Oh, it was nothing; it was only that my stomach was out of order."

The word affidavit occurs twice in this letter. It also occurs in numerous instances in other letters. You will observe that the defendant never spells the word right. He invariably ends it with a "d" instead of a "t."

The defendant had now got to Yarmouth; and the gentleman he refers to in the letter I have just read was Captain Fraser, who had been in the Carabineers so long. He was the regimental sergeant-major at the time Roger joined, and was promoted afterwards for meritorious services. He obtained his commission as captain of a troop and was quartermaster in the regiment, and knew Roger perfectly; and what is more, had been remarkable for his kindness to this young officer, whom the other lads there, in the bent of their mischief and rioting, were in the habit of making a fool of, playing those practical jokes on him which I hope are now entirely got rid of in the English army. He writes to Captain Fraser, taking this opportunity of doing so while at Yarmouth, where Captain Fraser resided: "Dear Fraser As I was at Colchester I thought I would run down this far. to see you. I have sent my friend Mr. Rous with the Note. so that you can say if you have any objection to come and see me. and have an hour conversation and Judge for yourself if I am myself or not my Friend will show you Sherstons Affidavit. and you will see by that. That he did not know me at first till he conversed with me a little while. Hoping that I shall have the pleasure of seeing you before I start I remain Dear Fraser truly yours R. C. D. TIEHBORNE." This note was accompanied not only by the affidavits of other people, but by a copy of the Castro correspondence, to which I shall have to call your attention further on. Captain Fraser gives us the following account of the interview. "I was pressed to go and call and see Sir Roger. At first I objected and explained that I had seen the defendant at the Law Institution, and had perfectly satisfied myself he was not Tiehborne. I said to Mr. Rous at the time, 'I do not like to go down to the Victoria Hotel and tell a man he is a liar. I am perfectly satisfied.' He said that Sir Roger would be very glad if I would come. My wife also said, 'You had better go, it would be more satisfactory to you to see him and speak to him.' On that I said, 'I will.' I wanted to do what was right and just." Accordingly, the witness goes to the 'Victoria Hotel,' and arrives at about eleven o'clock, and finds the defendant there with Rous and Baigent. He is asked to tell what took place at the interview, and does it in these words: "I sent up my card, and I was directed by the waiter to walk upstairs; and when I got to the door he opened it, and the defendant was standing nearly in

the centre of the floor, just opposite the door. He said, 'How do you do, Captain Fraser?' The words I made use of were, 'I do not know you.' I was then asked to take a chair, which I did. I sat down, and the defendant placed himself on my left. We sat and conversed for some time. Rous and Baigent and the defendant were asking me questions. I found that some things belonging to the regiment he knew pretty well. I said at the time, 'There are a good many circumstances which, if you are Roger Tichborne, you could tell me, which nobody knows but ourselves, no servants having been there.' He could not tell me anything at all. I then referred to an affair at Canterbury: 'If you can tell me the affair that occurred at Canterbury, I will try to believe you are Tichborne.' He could not tell me anything about it. I said, 'Do you remember anybody coming to my room during the time you were there?' He said, 'No.' I said, 'Do you remember John Irwin?' He said, 'Who is John Irwin?' I said, 'My good fellow, that is just what I said to you before; you know nothing about the regiment.'" Captain Fraser tells us "this John Irwin had been the mess waiter in the regiment I dare say a quarter of a century: he was the mess waiter during the whole time Roger Tichborne was in the regiment, and a man that was thoroughly well liked by all the officers in the regiment, and nobody could be in the regiment without knowing he was mess waiter. Q. You told him, 'You know nothing about the regiment:' Did either Baigent or Rous say or do anything?—They were putting questions about his personal appearance. He was sitting a little in advance of me; I saw a slight inclination to likeness at the side part of the face. I said, 'I fancy I see a slight likeness,' but the claimant was far too good looking for Roger. His hair at that time was much fairer, lighter, than what it is now; inclined to curl towards his neck. His hair was different from Roger's; I told him so at the time. He was much taller and stouter than ever Roger was. Q. You told him that he knew nothing about the regiment: what further took place before you parted on that day?—We were perfectly good friends. He pressed me to take some sherry; I would not take any. Of course he helped himself. He pressed me to stay to lunch; I would not do that either. He asked me to pay him a visit; saying he would show me a horse he had paid 200 guineas for; I refused that also. I got up to leave. He said, 'Will you shake hands?' I said, 'I have no objection to shake hands with you, but not as Roger Tichborne.' I then left him. Q. You then left him?—Yes." A long cross-examination of Captain Fraser ensued, in order to extract an admission from him that he saw a likeness, and what it comes to is that he thought he saw a slight likeness. He says it was not in the eyes at all, but in the length of the jaw from his chin upwards behind the ear. But no

admission was made by him, although much pressed about it, as to having found, or said he found, any likeness in the eyes, or eyebrows, or anything of the kind.

Let us next see what the defendant's account of this interview is, and then we will see what answer Captain Fraser makes to it.

“ Q. Did you put out your hand to shake hands with him?—I believe I did. Q. Did he say he had no objection to shake hands with you, but he saw nothing about you to remind him of his former friend Roger, who had served with him in the Carabineers?—I fancy that must be a slight imagination on his part. Q. Did he say anything like that?—I do not think he did. Q. That he did not mind shaking hands with you, but he saw nothing about you to remind him of his former friend Roger, who had served with him in the Carabineers?—He did not say anything about shaking hands with me. Q. Did he say he could see nothing in you to remind him of his old friend?—I believe he passed some remarks about my stoutness, that he could not recognize me by my size. Q. Did he say he could see nothing in you to remind him of his old friend?—No, I do not think he did say so. He did say he could see nothing about me. Q. That you were stouter, or something of the sort?—He did say that. Q. Did he say except the stoutness, you were the same man?—No, he did not say that. Q. What did he say?—He sat down, and we conversed together about an hour. Q. Did he say that he could not see anything in you to remind him of his old friend?—Yes, I believe at the end of it he said he could not see sufficiently in me to swear to my identity. Q. At the end of it he did say that he could not see sufficient to swear to your identity?—That is no more than I expected he would do; I only wished to give him the opportunity. Q. And you ran round from Colchester to Yarmouth for the purpose?—The fact of the matter was I was going round. Q. That is what you told him. ‘As I was at Colchester, I thought I would run down thus far to see you?’—Just so. Q. Were Baigent and Mr. Rous present?—They were. Q. Did Captain Fraser say that if you could tell him a matter that had begun in the mess-room and had ended in his—Captain Fraser’s room—to you and him alone a thing you could not forget, that he would try to believe you were Roger Tichborne, and would do all in his power to help your cause?”

Then says the defendant, “That ‘try to believe’ is very nicely put in; but he did not say that, you know he did not. He told me this: He said: If you can remember one thing that happened in my room and tell me what it was, I will make an affidavit and swear to your identity. That is what he told me. Q. Did he not say that there was a matter which had begun at the mess?—He did not. Q. And ended at his room, you and he alone, that you could not forget; if you could tell him that, he would try to believe you were Roger

Tichborne, and did you?—That ‘try to believe’ he never put in: he said if I could tell him the one particular thing, he would make an affidavit of my identity: he said nothing about the mess-room altogether. *Q.* Did he say also that it occurred on the mess a night or two only before Roger Tichborne left the regiment?—He did not. *Q.* And fix, as I suggest to you, the date and the place, and all about the circumstance?—He did nothing of the kind. He asked me if I remembered a particular thing that had happened in his room. I thought of many things that did happen there, and told him, and he acknowledged it was correct. *Q.* He acknowledged it was correct?—Several things that I told him, but it was not the one particular thing that he wanted to know. *Q.* That one particular thing you could not recollect?—You are aware, of course, Mr. Phillips and him are connected together. *Q.* Did you, the next day, send him a letter?—I believe I did.” A letter from the defendant to Mr. Holmes, of the 30th January, was then read, in which he writes—“Dear Holmes, I hope you received the four affidavids I sent from Colchester. We arrived here last night. I wrote Fraser and Rous took it to him this morning. He Fraser came to see me about 11 and stayed till two. He would not make an affidavit. He says he recognise me by the upper part of my face and also from my conversation. And if I can remember anything that happened in his room before I left he will swear to me anywhere.” Captain Fraser, you will remember, was asked whether that statement was true, and he said, “No such words ever passed.” Then the letter goes on—“He left me in the most friendly manner possible and as promised to come and spend a couple of days with me at Croydon, he is quite convinced only he as told Bowker that he did not know me. He said he was sorry he had done so. We go on from Peterboro’ to-night.” Here, again, Captain Fraser was asked: “Is there any truth at all in that?” and he answers, “None whatever, except that I told Baigent and Rous that I fancied I saw a slight likeness on the side of the face; but any part of the conversation, such as you have read now, is totally untrue.” On the 2nd of February comes a letter from the defendant to Captain Fraser. Now, he himself admitted that the result of the interview with Captain Fraser was that he had not been able to state to Captain Fraser the particular circumstance which Captain Fraser had in his mind. But, on the 2nd of February, he writes him this letter—“Dear Fraser I have been thinking ever since to try and find or bring to my memory about what we were speaking. Do you mean the time I gave you a silver snuffBox. if so I remember that very well. I should like to hear from you if it is so. I have seen Mather the Trumpeter and also Barry Col. Hay servant. They are both at Leeds. You remember Mather. I have no doubt he was as much a Frenchman then as I was but he now speaks English very

well. They have both made very strong affidavids for me. Hoping Dear Fraser I shall have the pleasure of receiving a line from you I remain truly yours R. C. D. Tichborne." Upon this the defendant—that passage in his note being read to him, "Dear Fraser, I have been thinking ever since to try and find or bring to my memory about what we were speaking. Do you mean the time I gave you a silver snuff-box, if so I remember that very well. I should like to hear from you if it is so"—is asked, "Did you give him a silver snuff-box?—I did. Q. When was that?—At Canterbury. Q. Do you remember the circumstance?—I certainly cannot tell you the day and the hour. Q. Neither do I expect the day and the hour: the circumstance is what I ask you, not the day or the hour. What were the circumstances of the silver snuff-box?—I do not know that there was any circumstance about it. Q. You merely gave it to him, without anything particular to fix it?—To the best of my recollection I handed it to him to take a pinch of snuff; he put it in his pocket, and I told him he might keep it."—It certainly would have been a very cool proceeding on the part of Captain Fraser, if a gentleman handed him a snuff-box to take a pinch of snuff, that having first taken a pinch he should put it into his pocket—a very strange proceeding on the part of an officer in her Majesty's service, or indeed of any one else, and equally surprising on the part of the owner, that when a man puts his snuff-box into his pocket, he should say, "You are welcome to it."—The cross-examination proceeds: "That is how it came about?—Yes. Q. No more about it than that?—No, there was no more about it than that." Now observe the precise answers given with reference to this snuff-box. "Was it an old snuff-box of yours?—Yes, it was pretty old. Q. Had you bought it, or had it been given to you, or how came you by it?—I had bought it. Q. Did you have it any length of time?—Yes, I had had it some time. Q. Did you buy it in France or England?—I bought it in England to the best of my recollection. Q. Perhaps you can tell me where you bought it?—I really cannot tell you where; in Piccadilly, I think; it was an old box when I bought it. Q. He put it in his pocket, and there was an end of it?—Yes. Q. Do you remember whether the snuff-box had any mark upon it? Had it the Tichborne crest upon it, or your initials? Should you know it if you saw it again?—I should. Q. Has it got the Tichborne crest, do you know, do you recollect, or your initials?—I know it has got my initials; I believe so; to the best of my recollection. Q. Has it got the Tichborne motto?—I do not think it has. Q. Under the initials I mean?—I think not. Q. What is the Tichborne motto?—*Pugna pro patria*. Q. What does that mean?" and then he gives a doughty answer, "Fight for my country: it is slightly altered; I have to fight for myself now." Not a bad

answer at all. We have thus the circumstances of the gift of this snuff-box in full and precise detail—a silver snuff-box—bought second hand—to the best of his recollection in Piccadilly—which he had had for many years, and which, to the best of his recollection, had his initials upon it—which silver snuff-box was taken possession of by Captain Fraser, on an occasion when it was handed to him for the purpose of taking a pinch of snuff, and then liberally abandoned by the man who had so offered it. Now let us hear what Captain Fraser says about it. He is asked: “Do you remember before Roger Tichborne left Canterbury his making you a present?—Perfectly. Q. Of what was it?—A small wooden snuff-box about two inches in length, and $1\frac{1}{2}$ or $1\frac{1}{3}$ inches in width, a wooden snuff-box. Q. Do you remember how that present came to be made?—Yes, I will explain that. Q. First, I may ask, I believe the box itself you have lost?—The heat on the veneer warped the box and caused the lid to come away”—This happened in India where it is very hot; the wooden snuff-box got spoilt, and he threw it away—“Tell me the history of it?—I was not at mess that evening but sat in my own room. My room was on the same passage as the mess-room was, and he came rushing into my room in his usual way. I said, ‘What is the matter now, Tich?’ and he told me the young fellows had been bothering him the whole night at dinner, and I said, ‘Why do not you take my advice?’ I said, ‘Sit down.’ He was threatening to report it the next day, as no superior officer was present at mess. I said, ‘Sit down.’ I opened the door and called out for John Irwin, the mess waiter. He came up in mess dress. I said, ‘John, bring a bottle of champagne.’ He went and brought it, and I made Tichborne sit down, and we drank the bottle of champagne, and after the champagne was drunk, I called out to Irwin again, and made him bring a bottle of port. After that Roger thanked me for the trouble I had had with him at his drills, and for the kindnesses I had shown him in the regiment. He then went upstairs, he was not sleeping in his own room, he was expecting daily to be gazetted, and he slept in a brother officer’s room over my head. He came back and said, ‘I will make you this handsome present.’ They were the words he used, and that he wished me to keep it in remembrance of him. I looked at him and did not know whether I should take it or turn him out, but I took it. Q. You took the handsome present?—Yes, and kept it for some years when we were in India.” On cross-examination he is asked this very *apropos* question, whether Roger was sober? By the time they had finished the champagne and port, he may not have known the difference between a silver and a wooden snuff-box. “Was Roger quite sober when he made you a present of this wooden snuff-box, and said ‘I will make you this handsome present?’—You can understand if you

drank half a bottle of champagne and half a bottle of port, probably you would not be. *Q.* I never tried that mixture, therefore I cannot tell.—I tried it, and I was perfectly sober.” Then he adds what, as he had been in the regiment all the time Roger was, and had known him so intimately, must go, I think, very much to take away from the effect of some of the evidence of his being a drunkard—“I do not think he was drunk, I never saw him under the influence of drink in my life. *Q.* He handed you a miserably wretched little snuff-box, and he said, ‘I make you this handsome present:’ did he do it ironically?—No, nothing of the sort. *Q.* Did he do it seriously?—Yes. *Q.* You said you were going to drive him out?—I said I looked at the box and I looked at him. *Q.* You said something further?—I said I did not know whether to throw it out or not: I was disappointed, I might say, at the pultry thing that was given. *Q.* He thoroughly understood what he was about?—Tichborne and myself both. *Q.* Tichborne and yourself?—Yes, thoroughly. *Q.* Am I correct in supposing if he had been able to describe that to you entirely as it happened, you would have believed him to be the man?—Well, no; I had my doubts, but I certainly would have, because there was no person present, no servant there that could convey the information to the party. *Q.* You had not conveyed the information to anybody?—No, certainly not: I have spoken of it since this case commenced to others. *Q.* At the time you put that testing point to him, as I understand from you, nobody knew it but yourself?—I do not think there was; I am not aware. *Q.* You were not aware of any person having known it at the time you put that point?—No.” This, then, is Captain Fraser’s account of it. The young fellows had been tormenting Roger at the mess. He comes away in a distressed state of mind, and pours out his vexation into the ears of Captain Fraser, and Captain Fraser thinks the best way to quiet him and make him get rid of this feeling of vexation and annoyance is to call for a bottle of champagne, and after that a bottle of port, and these two officers sit and finish that, and whether Roger thought, because he had had the snuff-box some time, and there might be a little curiosity about the workmanship of it, he would make Captain Fraser a present of it, and that he would value it as much as he himself did, I do not know. It was a curious thing to do; however, he did it. If you believe Captain Fraser’s statement, then it is quite clear that the defendant’s version must be erroneous, because the box was not a silver but a wooden one, and given from a sense of kindness and gratitude for the friendship the other had shown him, and not a box appropriated under the circumstances stated by the defendant—that is to say, of a man putting it in his pocket without its having been given to him at all. Now such is Captain Fraser’s account of it, and nothing is more

curious than this, that the defendant should know of the fact of Roger Tichborne having given Captain Fraser a snuff-box, and yet should know nothing whatever about the circumstances under which that snuff-box passed into the possession of Captain Fraser; should know nothing whatever of the character of the box at all; should be totally wrong about its being a silver snuff-box or anything of the kind. It is one of the curious incidents which occur in the course of this inquiry which may admit possibly of the explanation which I shall submit to you presently. It may be said, and it is a curious incident in the inquiry, of which one does not readily see the solution, how could he know Roger had given Captain Fraser a snuff-box at all? He certainly writes to Captain Fraser after he had gone away to some other place, and says, "I remember my having given you a snuff-box, is that what you are alluding to?" He had not remembered it at the time, but it is quite possible that though he did not remember it at the moment, it might afterwards, in the course of the next forty-eight hours, while he was travelling, have occurred to his mind on reflection, "Oh, I know what he means now, he must have meant my giving him a snuff-box." If he had said, "I remember giving you a snuff-box," and could have stated the circumstances under which it was given, it would have been a very strong fact in favour of the defendant, if Captain Fraser is right in saying (which, however, possibly may not be the case—he may be wrong as to that)—that he never mentioned it. It may have been known in the regiment. He may have gone to his brother officers and said, "Look at this foolish boy, Tichborne. He came last night to my rooms, and we had a couple of bottles of wine, and he got up afterwards and brought me down this wooden box as a handsome keepsake." Nothing is more likely than that an observation of that sort should be good-naturedly made at that time about the foolish ways of the particular individual, and so have got out; and then from travelling in the society of some of these military people the defendant may have heard the story, and got hold of the wrong end of it. But there is another solution which is possible, and that has reference to what I suggested yesterday. Roger having kept a diary, it is more than probable he kept one while in the regiment, and the defendant on those military progresses—that is to say, going from place to place to see persons who had belonged to the regiment—because that was the specific purpose of his going to Colchester as it would be of his going on to other places—if not the true Roger, would probably take care to arm himself with that particular source of information, and then if afterwards, looking into the diary, he saw some such note as "Gave Captain Fraser my old snuff-box," without mentioning whether wood or silver, the natural conclusion being that he would give him something better than a wooden snuff-box, it may have occurred to

the defendant to say, "Oh, I dare say that is what he was referring to; at all events, there is no harm in firing the shot. I will write and ask whether the gift of the snuff-box was the circumstance to which he was alluding. If it is not, there is no harm done; and if it is, and I can get him to answer me that fact, it will be a very striking thing in my favour, that I remember giving him a snuff-box, and that this was the thing he had in his mind as a thing only known to him and me. It will be a thing to be put forward hereafter to convince people that I am the man." If there was no mention of what the snuff-box was, it may have misled him, and then when asked about the snuff-box, he answers at random, "It was a silver box; I bought it in England, to the best of my recollection; I think in Piccadilly. It was an old box when I bought it. I believe it had my initials on it. I offered him a pinch of snuff; he put the box in his pocket, and there was an end of it." Gentlemen, you must judge; it is certainly a circumstance that he did know of the gift of the box, and referred to it in that note. On the other hand, you may set against that, that he, I will not say totally forgot, but, at all events, misstated the circumstances under which it was given, as also the material of which the box was made, and all the things he might be expected to know about it. Before I leave I should add that he (Captain Fraser) was one of those who saw the defendant at the examination before Mr. Roupell, and whom he passed without any sign of recognition; but it may have been, as I said, when speaking on that subject, that he did not choose to acknowledge those gentlemen; that it was a voluntary act of his, and not resulting from any failure to recognize them.

The defendant goes back to London, and then writes to Rous on the 14th February, "I have just received your kind Letter. I purpose to start on Monday morn: for Ireland and will meet you at Mr. Holmes Office at $\frac{1}{2}$ past ten. I hope that will be convenient for you. Mr. Holmes will have all prepared. You are mistaken about me being unwell for I am in first rate fettle. Lady t send her kind regards to Mrs. & Miss Rous and the boys. I had heard of Gosford's visit to Winchester and also that he had seen Mr. Colenridge I was at the Theatre last night so am rather drosy to-day—please give my kind regards to Mr. Hopkins if you see him. I should have wrote to him only I thought he would be so much depressed, and it would worry him." There he has got "worry" right at last. "The Children are gone to London to-day to see their Grand Mama. tell Miss Frances I hope she received plenty of Valentines." On the same day he writes to Rous again the second time. "I wrote you this morning saying I would be ready to start for Ireland on Monday I doubt now whether I go at al for the present. Mr. Holmes received a letter from Mr. Onslow, which appears to me to have

rather frightened him. For he been speaking to me to-night in a way I don't like. for I have told him before. that when he anything to say to say it to me by myself and not before Mrs. Holmes and my Wife. I entend to send Mr. Onslow his Horse back on Monday and sell the other, as Mr. Holmes think I spend to much. But I also entend to stay my case until. I have more funds so that I can pay him what I owe him and need not have to be spoken to in such away. I have no doubt Mr. Onslow entended to benefit me in what he did and I don't think he would have caused me such misery if he knew it. But however I cannot pay him for his Horse so I will ask him to take him back and I will make him some compensation for the use of him. I am taken rather aback by Mr. Holmes to-night so much so that I entend to brake up the whole of my establishment and go to lodgings. Please give our kind regard to Mrs. and Miss Rous and your Sons." On the 18th, he writes: "Dear Rous I received your kind Letter yesterday morning. You must have read my letter wrong. it was because Mr. Holmes wanted me to send away my horses and servants that I was annoyed. He wanted me to do so that he might continue the case for two years I said I should not do so the fact is I should never live under the anxourty"—a singular form of the word anxiety—"I have never seen him since and don't know what news he has received from Australia I received two letters last night from my Wife Friends. I was very much excited when I wrote to you last It was past one on Sunday night and I think I had dranked to much Brandy. I received A letter this morning from Francis Baigent he still go on about why don't I do this and that and about the people at Winchester being frightened. Just if it mattered to me if they are such fools to be gulled by A parcel of lies, I say let them."

Then there is a letter of February without a date to Lady Tichborne—"My dear Mamma I have just received your kind letter with the cheque many thanks my dear Mamma I am quite of your opinion as regards our Visitor. but still her affidavit is very usefull to surport your own. and I must act politely to her. till I get her affidavit." I wonder who the visitor was. Could it have been the ever faithful and attached Miss Braine? If so, it shows that, while she was devoting herself to the service of the defendant, the defendant and the Dowager Lady Tichborne had not that exalted opinion of Miss Braine as the paragon of her sex which the learned counsel for the defendant has represented her, and that they would have been very glad to get rid of Miss Braine, if it had been politic to do so. I should be very sorry indeed if I misrepresented this, but I know of no one from the correspondence who could at that time have been a visitor of the defendant, and who afterwards made an affidavit in his favour, being a female and a visitor, but Miss Braine;

and if so, I think Miss Braine must be highly gratified if this letter should come to her knowledge. "I am quite of your opinion as regards our Visitor"—that is, I do not at all like her, and should be very glad to get rid of her, but I must get her affidavit—There is nothing like policy in this world—"I have not seen Mr. Holmes since you left. Mr. Kingston and we had a talk after you went I showed him Holmes Bill. He was much surprised at his charges, and said if he had known Mr Holmes intended to charge me, when he asked any question about me he would not have done so. He also remarked that he had done a deal of writing for me, but he done so as A friend. he said he thought Holmes had made the Bill only to show the other side that he acted with no partiality towards me. It very good but I cant digest it. Hoping my dear Mamma that you did not catch Cold from the long drive you took yesterday, I remain your affectionate Son, R. C. D. Tichborne. Mary Agnes and Roger are quite well and sends their kind Love to you, my dear Mamma. I received a very nice letter from Rous to day, in answer to one I wrote when almost mad on Saturday night."

Now comes the first and only reference in his correspondence and intercourse with Lady Tichborne to the supposition that he is Arthur Orton. He writes: "Feby. 19th 1868. My dear Mamma I am glad to say I am much better to day, but it such a miserable day here, that I cannot go out. When I wrote to you yesterday, I had not seen the report of my case in the Times, in fact I did not know of it, till some gentlemans that was here last night told me of it. I had to send for Mr. Holmes last night to see a gentleman that was here, but I had no opportunity of speaking to him for he left with the others. The gentlemans that was here was some Friends of Mr. Bloxam It appears that the other side are trying to make out that I am not myself but a person named horton. This person that came happened to be a schoolfellow of this Horton, and in cause of business mentioned it to Bloxam, and told Bloxam that Detective Witcher had been to him three times. He told Bloxam he could swear to this person Horton wherever he seen him, so I told Bloxam to bring him here and let him see if I was his old schoolfellow. As soon as he saw me, he said, I have never seen this person before, he certainly is not Horton my old schoolfellow. I then sent for Mr. Holmes, and he told Mr. Holmes that the lies they have told him was dreadfull. He told Mr. Holmes that the person, the other side told him I was, was a sailor and had been a sailor all his life. He said this person Horton had marks on his hands that would never disappear, from pulling on ropes, he looks at my hands and said he would swear I had never been a sailor;"—As to Arthur Orton having been a sailor all his life, we know that is not so; however, I pass that by—"This gentleman is named Page, and is a very rich man,

He owner of ninety vessels on the river. and is a director of the South Western Railwas. This will be a heavy blow for the other side. for they will see that they have again broke down. I wonder who they will try and make me next. Now my dear Mamma I have wrote you a long letter. and have nothing further to say. except that Mr. Holmes told me last night. that the Rev. Mr. Cooper was going to make an affidavit against me. and that I dont believe. Dont you ask him not to do it. on any account. Agnes and Roger are both quite well and Mary joins me my dear Mamma in our kind love to you. Your affectionate Son R. C. D. Tichborne."

Next comes a letter to Rous, which shows that Mr. Cooke, who had been to Ireland, had now come back, when of course he would converse a good deal about Clonmel, where his friends all lived, and where the regiment had formerly been. "Dear Rous I received your kind letter. I have many things to say to you if you could run up for day or two and if Mrs. Rous can spare Miss Rous bring her with you. I have nobody here but Mr. Cooke from Ireland. I am not going anywhere at present and Lady t would be so glad if Miss Francis could come and stay a few days with her. I have every reason to believe that my case will now go on without delay. I have a great deal to say to you that I cannot well put on paper. Drop me A line and say when you will be up and if you know any one that wants to bet. Mr. Hingston wants to lay out a few hundred now. he has commissioned Bloxam to bet for him but must have money down. I am sure you will like to make Mr. Cooke acquaintance. hoping soon to hear from you." See the sort of way in which this was going on—betting upon the issue of this litigation. I am glad Mr. Bloxam has not appeared as a witness either on the former trial or on this, as he had bets on the issue. The next letter is:—"Dear Rous I received yours of the 29th and 1st inst and also one from Mr. Onslow who says he will call on me through the week. I saw Mr. Hingston yesterday—he had seen Mr. Leete and White, and told me to wait a few days and he thought all would be right—Mr. Leete father is dead and I think they entend to wait till the funeral is over and they entend to see holmes together"—written with a small "h"—"I know he had been telling Mr. Onslow a lot of humbug. I have sent you your Cigar Case and put the Eyeglass inside. I am very thankful to you for seeing Mr. Onslow for I do not think I have myself stoped the case five minutes. Mr. Holmes wrote me a letter on Saturday night, it was evidently wrote that he might show the copie to any one and put the blame on me. I have sent you a copie of it, and you will find it directly opposite to what he told you."

He next writes to Major Kellett, who has been a witness before you, "3rd March. Dear Kellett Mr. Cooke has just sent you a few lines. and

I have sent you a few of the affidavids. I have a hundred and eighty of them altogether. but I thought you would like to read one or two of them. I am affraid I cannot leave here just at present. So if you would like to have a trip over I shall be most happy to see you and also Mr. Sargent if he would come or Mr. Morton." Mr. Morton was the gentleman at Clonmel with whom Roger was so very intimate, at whose house he constantly was. Observe this part of the letter. He writes to Major Kellett, and gets Mr. Cooke to send a few lines, in which, no doubt, Mr. Cooke would tell him this was the real Roger, who was anxious to see Major Kellett himself, with a view of inducing him, who had known Roger very well, to come forward as a witness on his behalf; and he has recourse to the practice which seems to have been uniformly resorted to whenever he was writing to a party he desired to make a witness of—that of sending him some of the affidavits already made. Whenever they got a man to recognize the defendant, Baigent and Rous, who accompanied him everywhere, and always present when he saw one of the Carabineers, or anybody it was desired to make a witness, were ready, pen in hand. They took down the name, and began at once to draw up an affidavit, putting everything in the strongest possible way, as we know from the affidavits produced, and from the men who made them, who, when called as witnesses, were obliged to admit that they had not said all that was to be found in the affidavits—that, at all events, the affidavits had most materially strengthened the statements they had made previously. These affidavits were printed; there were abundance of them. The affidavits of A. and B. are sent to C. C. is partly persuaded by the affidavits which he then receives, and says, "Dear me! if So-and-So say he is the man, he must be;" and having seen these affidavits he goes with a bias on his mind which prepares him for the recognition of the defendant. Then C. makes an affidavit, and then the affidavits of A. B. and C. are sent to D., and so it goes on, until at last the defendant states in this letter that the affidavits have reached the number of 180. The supposed mother's affidavit, and the affidavits of everybody else, and the Castro correspondence (which was supposed at that time to make in the defendant's favour)—all that is printed and circulated. I must say (and I say so with the sanction of my learned brethren) that this course of proceeding was one discreditable to Mr. Holmes, as the professional adviser of the defendant, and I hope it is a system that never will be resorted to again. The idea of inducing a witness to adopt a view or express an opinion which is not the result of his own unbiassed judgment, but which he is induced to come to by having the opinions, the judgment, and the statements of other persons placed before him, in order to induce him to be biassed by their judgment, instead of forming his own independently of all other considerations, is a system unknown to us in the course

of the preparation for the trial of an issue, and obtaining witnesses for the purpose of supporting that issue. This system is one which is altogether unprofessional, and which must be considered—I do not hesitate to say so—discreditable to any professional man who adopts it, as Mr. Holmes in this case did. It is one which I hope will not be resorted to again, but, if it should be, I hope it will be denounced and reprobated, as, in the discharge of my duty, I take this opportunity of denouncing and reprobating it on the present occasion.

Then there is a letter to Mr. Rous, of the 4th March. “Dear Rous I received your kind letter. I shall start from Waterloo by the first train on Friday morning. Will you kindly arrange for Mr. Hopkins Mr. Onslow and the Col. to meet me at a convenient hour has I shall have to return the same night. I will bring Mr. Hingston with me, if I can—considering he has lent me so much money I think he ought to be a party to all my counsel with others—I know him to be a Gentleman and a friend—and therefore I don’t think my friends at Alresford will mind making his acquaintance.” We have not been introduced to Mr. Hingston. I do not know what he is, but I should gather from his lending so much that that gentleman is one who deals in lending money, and takes very good care to get abundant interest, or promises of abundant interest, for the amount lent.

On the 6th of March, the defendant writes a letter remarkable only for the character of the spelling of a word which occurs in it. “I am very glad you have got that House on those terms. I saw Mr. Holmes last night and he told me about it. Francis has just started for home. he has promised to meet me at your House on Wednesday. Poor fellow he is nearly knocked up.” That word is a curiosity, because the “k,” with which the word “knocked” should commence, is left out, and that that is not a slip is shown by the recurrence of the word with the same spelling—“We were both very ill when we left Liverpool—but I have quite recovered again thank God. I had too much talking, that and cold together quite knocked me up. I intend to start by 5 p.m. train to morrow evening,” and so forth. Then there is a letter to Rous again of the 6th, and this is a curiosity again in point of orthography. “I am afraid my friends will think very bad of me for not coming down, but it was next to an imposseabilite”—the last syllable spelt “te” instead of “ty”—“I left Croydon last night to stay in London, so as to leave by the first train this morning, and went to spend the evening at Bloxams to my great surprise Mamma came there about ten o’clock almost frantic and I could not get her to go home before I promised not to go and it would not do for to brake my word with her has she has been so kind to me”—You see she will not let him go out of her sight—“I enclose a letter she sent

in search of me before she found out where I was. This morning I received a letter from Mr. Holmes. I intend to keep out of the way at present, but will be here from 3 to 5 to-morrow. If I am arrested I shall be declared Insolvent and cannot appoint an Assignee as I am not in possession. I met Mr. Hingston on Wednesday night he had seen Holmes and Holmes had told him that all he required was security for what he might lay out of pocket. But when I told him of Norris' letter he was surprised and said he would go and ask Holmes what the D he meant by it. I suppose this has annoyed Holmes and he told these parties to write to him—it almost drives me mad. Holmes persuaded me to let them have a judgment against me and of course they can arrest me at any minute. I could manage praps to pay the two hundred and odd pounds"—odd spelt with one "d"—"but if I did that I should have to pay all the others of course that I cannot do I don't know what to do Holmes is evidently playing me false as he told me some time ago these Bills were all right, and the parties would consent to wait. If you see my friends who so kindly was to meet tell them it appears to me as if I was standing in a place surrounded by fire, and whichever way I go I go into it tell Mr. Onslow I should be most happy to receive his advice and also that of Mr. Hopkins & Col Lushington I hardly know how to do or how to act. The only way I know of is to go over to France till they come to some arrangement with Mr. Holmes for me. I am very sorry I sent Norris to Holmes, as he Norris, I find cannot be depended on, for I have found out that he also is playing false. My God is this not dreadful to find everyone I trust selling me like a Horse at a fair"—suspicious, you see, of everybody. Mr. Norris, the solicitor, was the attorney of the alleged mother.

On March 7th, he writes to the Dowager, "My dear Mamma, I had the Waggonette up to start the first thing this morning. but could not on account of the diarrhea. There are also some suspicious looking fellows about, so I don't want to go out. There is a Train starts from Red Hill which is twelve miles from here at 9/15 p.m. so I shall drive over there and meet it to night. I would like you my dear Mamma to come down, *and bring that letter with you that I showed you last night.*" That was a letter from Mr. Holmes proposing to throw up the case. Then he goes over to Boulogne to get out of the way, and on March the 8th he writes, "My dear Mamma, I have great pleasure in letting you know I arrived safe. We had to stay all night at Folkstone, but arrived here quite safe this morning. I have told Bogle, my Mama, to send you two letters that I left with him to show Mr. Hingston, one is the letter you saw. The other is a letter from Mr. Holmes giving up the case. I would like you to go to Mr. Norton and ask him if he will take up the case and show him Mr. Holmes' letter, if he will show him the

other and get him to go and stop it so that I can come back. I can do no more now till I hear from you. This seems a very quite Hotel"—quite for quiet—"and we are very comfortable as yet. We had a very stromy passage across, the wind blew very hard, send my kind Love to my wife and chlldren and some kisses to my dear little Agnes and Roger. The fellow that was watching me at Croydon yesterday came to Folkstone this morning, but being Sunday morning he could not arrest me. Waiting now till I hear from you my dear Mamma. I remain your Affectionate Son, R. C. D. TICHBORNE."

At this time there occurred a startling event. On the 12th of March Lady Tichborne died suddenly; it appeared there was disease of the heart. She was sitting in her chair in her apartment, and when some one went in she was found dead in her chair. On the 23rd of March the defendant writes to Major Kellett, "Dear Killett I should have written to you before in answer to your kind letter. but I have no doubt you have heard of the great loss I have sustained in losing my poor Mother. It now necessary that I should get all the witnesses I can to support my case. It necessary to have all Affidavits filed before the end of this week Will you therefore be so good as to help me. by coming over with Captⁿ Sankey on Wednesday or Thursday next. I am writing at my Solicitors office. and I have no other paper I am sorry to give you such short notice but I am driven up in a corner." Then he writes to Rous on March 28th, "2 Wellesley, Croydon, March 28/68 Dear Rous I received your kind letter yesterday. I hope you will soon get me a house"—the mother being gone there was no longer any one to restrain him from going to live in that part of the country—"in your"—now comes the word which he said a man must be drunk not to be able to spell—"neighborhood I am very unwell here I had A letter from Mr. Onslow he says he thinks he can soon get one I have got two more Affidavits one from Sarg^t Major Mac Court and one from Searj^t Major Mankan and Miss Braine sign hers on Monday, poor Francis is here working very hard for me. I should be quite lónely only for him, Mr. Holmes seems to throw himself well into the Case now. I only hope he will continue to do so, My wife has just come in and sends her kind regards to you all we are all very well in health thank God. I am trubled a little bit of A night with my"—now this is an awkward word which he has a difficulty in spelling—"cought but nothing to speak of. I hope Mrs. Rous is better and that Miss Rouse and the Boys are quite well. I am most happy to receve A line from you any time you have time to write." Then he appears to have written to a Mr. Shield in Australia, to whom he had made application at some previous time—we have not the letter and I do not know what it was—but this letter has been put in of April 7th: "Mr. Shield. Dear Sir, My Solicitor Mr. Holmes has just shown me your letter of

the 24th Dec /67. You do not appear to remember me. I lived with Mr. Ward who went by the name of Parramatta Jack. You must remember me. I am the party who went out and run the Black boy down, who had committed an assault on a little child and who the Police could not catch. You must remember making a promise to me with Sub Inspector O'Neal, that if I went and caught him you would not summon me at the trail"—he means trial—"I am also the party who wrote the letters Mr. Sinclair left in your charge, in case I should die. I have no doubt you remember I had to write to Mr. Robenson before you would give them up to me there, was no telegraph to Hay in those day The Telegraph House or office must have been built after I left I left just after some Villans put your carraige in the river. I remember Mrs. Shiell very well also her Servant Mrs. Murphy the constable Wife." On the 14th he writes to Rous. There is nothing particular in the early part of the letter. Further on he says, "We have not heard anything further from the swindling side"—that is, his opponents—"I wonder what their next move will be. Col. George found his lies was no good so he thought he would try and talk Mr. Onslow away from me. Mr. H. had a letter from Mr. Norris saying he had just received a letter from a gentleman a friend of Lord Arundell's beging of him to have nothing to do with my case, that he knew for certain I had left the country. Mr. Norris had seen me between the time the letter was wrote and receving it, so it was sure to have a great effect on him." He continues, further on: "I was much disappointed not meeting Francis at the Station the day I left. I thought he said he would come. I have here nothing to do, but I should liked his company much. I met a person at Woking Junkion. I thought it was Mr. Falke. I find it was not. I think it must be some one from Alresford. I must have looked very foolish. for he could not have known what I was speaking about, I thought I was speaking to Mr. Falke, Mr. Hingston Brother-in-law"—leaving out the "s"—"I can never remember a person after meeting them, if you should find out who it was please apologise for me. Sincerely yours." There is a passage in that letter which strikes one's attention. "Colonel George"—that is Greenwood—"found his lies was no good." Is that the way, even if Colonel George Greenwood had refused to acknowledge him, or had taken part against him, that Roger would have spoken of Colonel George Greenwood, who had been so kind to him as a youngster, who had gone over with him to Sandhurst to befriend him, as far as he could, on the occasion of his examination, and of whom, when the undoubted Roger wrote about him, he always wrote in a respectful manner? Unless you can account for it by his Australian life, is such a passage as "Col. George found his lies was no good" either as regards tone or style the language of an educated

gentleman? Would Roger have spoken of Colonel George Greenwood in that way?

We have next a letter to Rous of the 18th, in which he says this: "I was at Hackney seeing Orton two sisters yesterday. They gave Mr. Holmes a very strong Affidavid exposing much that had been done by the other side. I hope they will go on with this Case. Do not mention this to my Lady or they will not put it on record. I believe it has been reported that I have been ill. I am thank God very well and have been so lately." Next comes a letter of the 20th April, the last passage of which is of the most vital importance. "Dear Rous, I received your letter this morning. My reason for not coming down last week was because Holmes had taken the house for A nother week"—the syllables are divided in "another" as on former occasions—"I shall be glad when I get out of this, for we are miserable here. They are going to apply on Thursday for a Recever. So I suppose I cant get away untill Saturday, as I shall have to give up my Mother Boxes. Let me know as soon as the house is ready, for we are so miserable in the way we are, we have had everything packed up for more than a week, even our Bed. We shall have to stay a day or two with you till we get the things fixed, when we do come. Francis is here helping me all he can." Then comes the important passage: "We have received a nother letter from Senor Don pedro Castro of much importance, inasmuch has they have offered him a bribe, he has sent part of my Hair back, in the letter. You shall have a copy." If that "he has sent a part of my hair back in the letter" is to be treated, as the language imports, as an acknowledgment that the hair which was sent back—under what circumstances we shall see presently when we come to the Castro correspondence—was the defendant's hair, which had been cut off, as that correspondence states, by an old lady who had taken a fancy either to Arthur Orton when a lad, or to Roger when he was out there as a man, and who had cut a lock of hair from his head—if that is to be taken as the defendant's hair, it is, for the reason I shall point out to you by and by, conclusive of this case. The defendant, though he there acknowledges that it was his hair, and though he acknowledges that again in the answer which he writes to the sender, has since denied that it is his hair, and that denial must be taken as evidence given by him in the cause, and must be taken into account. You will have by and by to consider whether that is the defendant's hair or not; but undoubtedly, in the consideration of that all-important question in this cause, this letter which I shall present to you again for your careful consideration by and by constitutes a material element. There is the acknowledgment in terms that a portion of his hair has been sent by

Pedro Castro. He speaks of it as "my hair," and therefore in terms acknowledges that it is his hair.

We are now coming to a very important part of this case, which occurred in the year 1868. It having been stated by the defendant, both in his affidavit and in his examination before Mr. Roupell, that he had passed some time at Melipilla—some days at all events, and had there made the acquaintance of Castro, whose name he afterwards assumed in Australia, inquiries were naturally made in that quarter as to whether Roger had ever been heard of there, or, if Roger had not been heard of, whether some other young Englishman had been, and if so, who he was—above all, if a person of the name of Orton had been heard of, and the facts which came to the knowledge of the defendants in the ejectment led them to apply for a commission to be sent out to Chili to examine witnesses there on this most important part of the case. The issuing of that commission was opposed by the defendant. He made an affidavit in the month of June, 1868, that the application was made solely for vexation and delay, and for the purpose of adding to his embarrassments. In his affidavit, in which the name of Arthur Orton appears for the first time, he sets out a paragraph that had appeared in the Australian newspapers. He says in this affidavit, "Various paragraphs adverse to me have appeared in the Australian newspapers since my return to England, and which I believe emanated from the same Mr. McKenzie. The following is a copy of a paragraph from the 'Hobart Town Mercury,' which my solicitor recently received from Australia:—'The Tichborne Baronetcy. Mr. John McKenzie, a gentleman of the legal profession, who has been in these colonies for some months past, prosecuting inquiries in the above cause under an order from the Court of Chancery, has again paid Hobart Town a visit. We understand Mr. McKenzie has ascertained, as the result of his investigation, that the Australian claimant, who was known in New South Wales as Tom Castro, is identical with the young man named Arthur Orton, who, early in the year 1853, arrived in Hobart Town from London in the ship 'Middletone,' Captain Stone, now of the 'Harrowby' in this port, in charge of two Shetland ponies imported by Mr. T. D. Chapman. Orton signed ship's articles as a butcher, and was afterwards in the employment of various butchers in this town, and ultimately was engaged here by Mr. John Johnson to proceed to his station at Mewburn Park, Gippsland, to act as a stockman and general servant. We also understand that the photograph of Tom Castro, who is known in England as Sir Roger Charles Doughty Tichborne, Baronet, has been recognised by his former employers and other parties here as correct likenesses of the above-mentioned Arthur

Orton." Then the affidavit, after setting that out, goes on thus: "I knew the said Arthur Orton referred to in such paragraph. He was the son of a butcher in Wapping." Then he describes the face of Arthur Orton, and again says that Orton's face was "pitted with small-pox," but makes no mention whatever of a scar on his face.

Well, the application for a commission to Chili was granted. It was so obviously necessary as to make it impossible that the learned judge would refuse to grant it, and a similar application for a commission to examine witnesses in Australia was also made and acceded to. On the part of the defendant an application was made by his attorney to postpone the execution of the commission to examine witnesses in Australia, on the ground that his presence was essentially necessary at both places; that it was necessary he should go to Chili for the purpose of being identified by the witnesses there, and equally necessary that he should go to Australia for the like purpose; and as he could not be in two places at the same time, it was asked that the execution of the Australian commission should be postponed; and with a view of showing that that was only a reasonable application, the defendant makes an affidavit of the 3rd September, 1868: "I, this deponent, Sir Roger Charles Doughty Tichborne, for myself, say I have made the necessary arrangements for proceeding immediately to Chili and Australia, to be present upon the examination of witnesses there under the commissions issued in this action. I have also retained and paid counsel to represent my interests in Chili, and have paid his passage-money, as well as that of myself and attendants *en route* there, and I distinctly swear that it is my positive intention to carry out such arrangements, and after the execution of the commission in Chili, to proceed direct from thence to Australia for the like purpose." Then, the affidavit being a joint one of the defendant and Mr. Holmes, Mr. Holmes goes on: "I, this deponent, John Holmes, for myself say that the said plaintiff's leading counsel have advised that it is necessary and proper that the plaintiff should himself proceed to Chili and Australia, and be present upon the execution of such commissions. I know that the said plaintiff has made arrangements for going to those countries at once. I have instructed counsel on his behalf to accompany him to Chili, and I have also instructed my agents in Australia to retain local counsel there for him upon the execution of the said commission to that colony." Well, the application seemed perfectly reasonable, and the summons coming on to be heard before Mr. Justice Hannen, then a judge of this court, Mr. Justice Hannen made an order of the 8th of September "that on the defendant's undertaking to present himself on the appointments for executing the commissions in the republic of Chili, and in the colonies

of Victoria, New South Wales, and Tasmania, when required by the acting commissioners or commissioner, as the case may be, on having reasonable written notice for that purpose, the execution of the commission, dated the 3rd September instant, for the examination of witnesses in the said colonies of Victoria, New South Wales, and Tasmania, be suspended until the 4th day of March, 1869, and that from and after such day the defendants be at liberty to proceed with the execution of the last-mentioned commission as if this order had not been made." An undertaking was accordingly given on the part of the defendant that he would attend at the Chili commission at the time. On the 9th of September the defendant, then the plaintiff in the ejectment suit, started with a gentleman of the name of Hall, a member of the bar, as his counsel, and Mr. Stephens, Mr. Holmes's managing clerk, in the 'Oneida' steamer for Rio, on their way to Chili, and they arrived at Rio on the 3rd October. From Rio the passage was taken for all three by the steamer which goes round Cape Horn, through the straits, to Valparaiso, that being their destination, in order to have this commission executed. But, notwithstanding the passage had been taken for the defendant, he said he should not go by sea; he did not like it; he should go by land across the mountains. Accordingly, Hall and Stephens start by steamer; the defendant goes by land. He gets as far as Cordova, a place between Rio and Mendoza, the latter being at the foot of the mountains. He stays at Cordova a short time, and then turns back under circumstances which I shall have to give you in his own language presently; he turns back, comes back to Rio, holds no communication whatever with Mr. Hall and Mr. Stephens, leaves them to take their own course, and, indeed, to take their chance, and ships himself quietly in the first steamer starting for England; and, to the astonishment of Mr. Holmes and of the persons with whom he had gone out, ostensibly to meet the witnesses in Chili, he quietly comes back by himself.

In the meantime, Mr. Holmes, altogether unaware that he was coming back, had applied for a further postponement of the execution of the Australian commission under circumstances which he states in his affidavit. He says: "The plaintiff, accompanied by his counsel, Mr. W. E. Hall, of the Western Circuit, and my managing clerk, Mr. John Stephens, left England by the mail ship 'Oneida' on the 9th day of September last, and the arrangement then was that the party should proceed to Chili, by way of Rio de Janeiro, Buenos Ayres, and the Straits of Magellan, so that the plaintiff might, if required, be present upon the appointments to examine witnesses in Chili under the said commissions, pursuant to the said order; and after the said commissions to Chili were fully executed, then that the plaintiff and my said clerk should go from Chili to Melbourne for the purpose of enabling the plaintiff to be personally present, if necessary, and pur-

suant also to the said Mr. Justice Hannen's order, upon the appointments to examine witnesses under the said commissions to the said colonies. Since the said departure of the plaintiff and my clerk, I have received letters from them, to the effect that the plaintiff had resolved, upon his arrival at Buenos Ayres, to travel overland, across the mountains, from thence to Chili—as he stated he had done previously—and that Mr. Hall and Mr. Stephens parted company with him at the last-named city, and proceeded by steam-ship through the said Straits of Magellan to Valparaiso, where they both arrived in due course. I am informed, and verily believe, that the journey across the mountains from Buenos Ayres to Chili in the months of November and December is fraught with difficulty, danger, and delay, on account of the snow, the Indians, and other causes. On the 13th day of January instant, I received a letter from my said clerk, Mr. John Stephens, dated Santiago, 28th November, 1868, in which he reports to me the non-arrival of the plaintiff, but expresses his belief that he is travelling, and will join him shortly; also that the commission would be opened on the first day of December, and that Mr. Purcell, the counsel who went out from England on behalf of the defendants, the Honourable Teresa Mary Josephine Doughty Tichborne"—I cannot help remembering that that name has come across me before. I think I have already observed that the defendant christened his daughter in Australia not Theresa Mary Josephine, but Mary Agnes Theresa, which seems a striking coincidence, more especially, as afterwards, on having a son born, he added the name of Joseph to that of Roger. Where he got those names, of course, it is impossible to say; but they appear in the mention of the lady whom Sir Alfred had married, in the obituary in the 'Illustrated London News.' Certainly it is an odd coincidence that the defendant should hit on the two names borne by the daughter of Lord Arundel, whom Alfred had married. It may be a coincidence, but it is a remarkable one, if it is nothing more, because Roger could not have known that his brother had married, except from such a source as that; he could not have known it until long after he left England, because it did not take place until 1861—The affidavit goes on to say: "that the counsel for the Honourable Teresa Mary Josephine Doughty Tichborne, and the Honourable William Stourton, having leave to defend this action, had stated his intention of calling many witnesses, and that he thought he should be obliged to resort to the local courts, in which case it would take two or three months; that the journey from Chili to Melbourne would take two months, and it would be impossible therefore to reach there in time for the opening of the commission to the colonies on the 4th day of March next. The only question to be decided in this action," says the deponent, "relates to the plaintiff's identity, and I have always held and expressed a decided opinion that he was bound in the interest of justice to go abroad and personally present himself to the witnesses

who might be called upon either side to give evidence under the said commissions, both in Chili and Australia; and in support of my said opinions I have put myself to the greatest possible inconvenience by sending out my said managing clerk to accompany the plaintiff." Now, in these affidavits it is stated that the arrangement which had been made by Mr. Hall, the defendant's counsel, was, that all should proceed to Rio, and thence by the Straits of Magellan to Valparaiso; but when they arrived at Rio, the defendant declined to go with the others in the steamer, saying that he should go across the mountains. He never did go across the mountains; he never did try that passage, nor was he delayed by the snow, or by the Indians, because he stopped at Cordova, when he had only got half-way to the mountains, and came back. Now, of course, on his arrival in this country people held up their hands and said, "How is this? To what can it be ascribed except to a desire not to meet the witnesses out there, who might still remember the appearance of Arthur Orton, and who might say that instead of being any one whom they had known out there as Roger Tichborne, he was the person they had known there as Arthur Orton." It must be admitted that it would be by no means an unfair inference to draw from such conduct. The execution of the Australian commission had been postponed on his application by the learned judge, on the ground that it was essential to the ends of justice, whether he was the right man or the wrong, for his sake, or for the sake of the other party, that he should be personally present when those witnesses were examined, in order that they might have an opportunity of seeing whether he was the real man or not, and on that ground the execution of the Australian commission was deferred, on his affidavit that he was prepared to go all the way to Chili to be present at the execution of the commission, and on his giving an undertaking to do so. Of course, when he came to be examined in court he was interrogated as to this, and asked for an explanation of what appeared to be so strange a proceeding. The learned counsel for the claimant broke ground first; he did not leave it to be brought out on cross-examination, he smoothed the way by inquiring on the examination-in-chief: "I think you went on the 9th September, 1868?—We started from Southampton. Q. At the time of your leaving, in September, 1868, had you been suffering from any complaint?—I had. Q. What complaint had you been suffering from?—Erysipelas. Q. I believe you got as far as Lisbon, in the first instance, where you had a correspondence, I think, with Mr. Norris—I do not want to go into it at present?—Yes; with Mr. Norris. Q. Did you proceed on your journey from Lisbon to Rio?—Yes. Q. What was the condition of your health during the voyage?—Not very well. Q. When you arrived at Rio, did you make any arrangement to proceed to Valparaiso?—Yes. Q. Did you make the arrangement yourself, or did you leave it to Mr. Stephens and Mr. Hall?—I left it to Mr. Stephens

and Mr. Hall to choose what route they would take to Chili from Rio. LORD CHIEF JUSTICE BOVILL: You all went together to Rio?—Yes, to Rio. Q. Mr. Stephens, Mr. Hall, and yourself?—Yes.” Mr. Giffard then asked him who those gentlemen were. “I may as well ask you at once—those gentlemen were on your side?—They were. Q. Do you know by what route the other side were going; it is not very material; they were not with you, at all events?—No. Q. Did you go as far as Monte Video?—I did. Q. From Rio?—From Rio. Q. What was your state of health when you were at Monte Video?—Very bad. Q. At that time had it been arranged whether you three should go to Buenos Ayres or not?—It was arranged at Rio Janeiro that we should go to Buenos Ayres, and then take the overland route. Q. Then go overland from Buenos Ayres?—Yes. Q. In consequence of something that was heard—it does not matter what, at this moment—did they go by a different route from you?—Yes, went by the Straits of Magellan. Q. How did you go?—I attempted to go overland.” Now you see there is here at once a conflict between these two statements. According to Mr. Holmes, the arrangement was, that they should all go from Rio by sea, all three together, and the passage of all three was taken and paid for, but it was the defendant’s act in determining to go overland, contrary to the arrangement which had been come to. He says the reverse; he says they were all to go by land, but he left them the option, whether they would go by land or water, and they preferred water; but he adhered to the original resolution to go by land. Mr. Holmes, in his affidavit, and the defendant are at issue on that point. “Q. Where did they go to?”—that is, Mr. Hall and Mr. Stephens—“To Valparaiso. Q. And then you continued your original route on to Buenos Ayres?—I did. Q. Your stopping at Monte Video was on the way, I presume?—Yes, it was simply according to form? Q. When you got to Buenos Ayres, what was the state of your health then?—I was not well. I had to remain three days on board the steamer before I went ashore. The LORD CHIEF JUSTICE: What?—I remained on board of the ‘Arno’ steamer three days before I went ashore. Mr. GIFFARD: The ‘Arno’ was the steamer that had taken you from Rio to Monte Video and from Monte Video to Buenos Ayres?—Yes. Q. When you got to Buenos Ayres did you make any arrangement to go on?—I did. Q. Ultimately you did not go on, but returned to England?—Well, I went about 1,100 miles of the journey. Q. How far did you go?—I got to Cordova. The LORD CHIEF JUSTICE: Cordova seems to be about half way, according to the map. Mr. GIFFARD: He says about 1,100 miles. Mr. SERJT. BALLANTINE: It is at the foot of the Cordilleras?—No, not quite, I think. That is Mendoza.” Now, the statement that Cordova is 1,100 miles from Rio seems to

me a very gross exaggeration, that is, if Roger, who went the whole route on horseback, rightly represents the distance; he says the distance from Mendoza to Cordova is 400 leagues, which he makes 1,200 miles. I do not believe 400 leagues is 1,200 miles, for I believe it is a popular delusion to suppose that three of our miles go to a league; in reality it is about $2\frac{1}{2}$. However, if you look at the map, you will find that Cordova is not much more than half way, which would reduce the 1,100 miles of the defendant's statement to 600. Even that is undoubtedly a tolerably long distance; still it is not right to exaggerate it. Then Mr. Giffard goes on: "It was at Cordova that you finally stopped on your journey?—Yes. Q. How came that to pass?—I was waiting at Cordova to be joined by Captain Burton, and Major Rickards, and the Honourable Constable Maxwell." He does not explain to us how he had arranged with them to go with him or why he waited for them. However, "Having waited some time, did you at last make up your mind to start by diligence for Mendoza?—I did. Q. On the night of the 26th of November, did you send all your luggage down to the diligence office?—Yes. Q. When was the diligence to start?—At five o'clock the next morning: there were three of them. The LORD CHIEF JUSTICE: Three diligences do you mean?—Yes. Q. Which started at the same time do you mean?—Yes, my Lord. Mr. GIFFARD: Q. As a fact, you did not start by it?—I did not. Q. How came that?—I was taken ill in the night. Q. Did any one attend you?—The landlord, Colorado, and his wife. Q. What was the result? were you able to go on your journey or not?—No. Q. Did you finally return to this country?—I did. Q. Did you do that of your own motion, or was that under advice?—Partly under advice, on account of my state of health." He is cross-examined about this, and he is asked whether the rest of the party, that is the other two, Mr. Hall, his counsel, and Mr. Stephens—"Did they wish you to go round by the Straits of Magellan to Valparaiso, and you declined?—I declined; yes. Q. Why?—Because I gave them the option in Rio of taking which route they thought proper, and they chose to go overland with me. When they got to Monte Video they went ashore and saw the consul there, Major Munro, who was the agent for the Panama steamer, which was then lying in the harbour, and the Major persuaded them that the Indians were very bad, and they would have their throats cut, and I don't know what all, and so frightened them that they went by the steamer and I would not go. I made up my mind to go overland." So that you see they were going overland, and then this crafty Major, being the agent of the Panama steamer, and wishing to secure them as passengers, tells them a pack of lies about the Indians, and so forth, and so frightens them that they will not go overland, and then the defendant, not being intimidated by fears of

that kind, determines to go, and goes part of the way. "I attempted to do so," the defendant says. "Q. However, they went round by the Straits of Magellan to Valparaiso?—Yes, I was very ill at the time. Q. Did you write to Mr. Holmes and inform him of this change of intention of theirs?—I don't know whether I did or not; I don't think I did." Then Mr. Holmes's affidavit is read to him: "Since the departure of the plaintiff and my clerk, I have received letters from them to the effect that the plaintiff had resolved, upon his arrival at Buenos Ayres, to travel overland across the mountains, from thence to Chili, as he stated he had done previously, and that Mr. Hall and Mr. Stephens parted company with him at the last-named city?"—And he says: "I say it was not at Buenos Ayres. —Q. Is that true?—It is true if you put in the name of Monte Video in place of Buenos Ayres. If you were going through the Straits of Magellan, you would not go to Buenos Ayres. I will put it Monte Video if you like. You asked me if it was true. If I had said yes, you would have made an attack on me. I will put it Monte Video." Then the passage is read again "Is that true?—Yes, we resolved to do it before we got to Rio; it was not when there that I resolved to do it. Q. Then, that is not correct?—We made our preparations to go that way. Q. This conveys an incorrect impression?—I don't know that it was done for the purpose. I am not suggesting that Mr. Holmes did it for the purpose; you see we all took and paid for our passage at Buenos Ayres." Then the Chief Justice says, "Did I understand you to say 'we had all taken our passage at Buenos Ayres, and paid for them?'—Yes, they were all taken. Q. The whole party?—Yes, the whole party had a free passage. The SOLICITOR-GENERAL: It is incorrect to say they were keeping to their plan, and you resolved to change it?—That would be incorrect certainly." Well, neither Mr. Hall nor Mr. Stephens has been called, but the fact that the defendant admits that the passage was taken for all three certainly would seem to favour Mr. Holmes's statement, that the original plan was that they should go round by the Straits of Magellan. The defendant, however, states that that is not correct, and that it was not he who departed from the original plan, but the other two. Then comes the question about his being prevented by illness, and I think one must say that there certainly never was a man so unfortunate as the defendant has been with reference to a great many of the critical conjunctures of this case, that he should be so frequently taken ill, just at the very time when it was most essential he should be well. I do not know how many instances of the same kind occur. Repeatedly he is either ill or drunk. He is drunk when he goes on board the 'Bella;' he is delirious when he is on board the 'Osprey;' he is ill at the moment when he should be up to meet his mother; and he was ill on this

occasion, when it was so all-important that he should go to Chili to meet the witnesses who were to be examined with reference to his identity. There are a series of occasions on which, unfortunately, at the moment when it is most desirable he should be well, he is overtaken by illness. Unless you are satisfied that he was in the state of health he describes, his returning to England instead of going across the mountains to Chili in execution of the commission, is a circumstance from which an adverse inference may be drawn. If his health prevented his going, we can only regret it. One thing I cannot help thinking; if he was well enough to start by steamship to come back to England, he must have been well enough to go by steamship to Chili, and he had nothing to do but to write from the town of Cordova where he was. The diligence was going across the mountains, and I presume the post also, and if he had sent by any of those diligences, or by the riding-post, which goes across the mountains, a letter to Mr. Stephens or Mr. Hall, and said, "My health is such that I cannot come to you across the mountains, but I am going back to Rio as fast as I can, I will take a steamer and join you," possibly the commissioners would have said there was reasonable ground for delaying the execution of the commission till the arrival of the next steamer. At all events if he had made that attempt it would have been good proof of his *bona fides* in alleging that the state of his health prevented him from crossing the mountains. He does not, however, attempt this, nor does he take the slightest notice of Mr. Hall or Mr. Stephens. He is asked, "Did you know Mr. Stephens and Mr. Hall were going to Valparaiso to execute the commission?—Of course, I knew that. Q. Did you know you had parted from them on the full understanding that you would present yourself at Chili to be confronted with the witnesses?—Certainly, I did—at least, I do not know: of course, I intended to go overland. Q. Did you part with them on the full understanding and expectation of meeting them again in Chili, that you would present yourself in Chili to be confronted with the witnesses?—Certainly I did. Q. There is no doubt about that?—There is no doubt whatever about it. Q. When you turned back from Cordova, and that understanding and expectation could not be fulfilled, did you write to Mr. Stephens to tell him?—I do not think I did. Q. Why not?—If you ask me why, I do not say I did not; I only tell you I do not think I did; I have no recollection of having done so. Q. Cannot you tell me whether you wrote to your attorney and counsel, who were going on to Valparaiso to execute the commission?—No, I do not think I did. Q. Cannot you tell me for certain whether you did or not?—No, I cannot for certain. Q. What is your belief?—My belief is I did not at Buenos Ayres. Q. At Cordova, when you turned back from Cordova, did

you write to them at all when you turned back?—You mean overland? *Q.* No, I do not; I do not say overland or over sea?—But you say did I write to them when I turned back from Cordova? What was the use of my writing when I was going back myself? The post was stopped over the mountains, so the only way the letter could be conveyed was by the Straits of Magellan, and therefore, if I wrote at all, it would be from Buenos Ayres, and not from Cordova.” The diligence was going at that period, and if the diligence went over the mountains, I take it for granted the post went. I do not know whether the bags went by the diligences, but if these went the post would go. Something was afterwards said about the diligence being stopped by brigands, but he did not know that at the time, and of course, he must be assumed to have taken for granted that if the diligence could go the post could, and therefore he could have sent a letter. He is asked, “Did you write to Mr. Stephens or Mr. Hall to let them know the undertaking and expectation upon which they had proceeded to Valparaiso would not be fulfilled?—Oh, dear no! I was not so formal as that. *Q.* Eh?—No, I never took so much trouble as to write and tell them. *Q.* Did you write to them at all?—Yes, I wrote to Mr. Stephens from Cordova when I first got there. *Q.* From Cordova?—Yes. *Q.* After you turned back is my question?—After I turned back I do not think I did write to them. *Q.* Not at all—why not?—I tell you I do not think I did; what more do you want? *Q.* Why not?—I suppose you will find a letter or something to prove I did—is that it? *Q.* Why not?—Why not? I keep telling you I did not; what more do you want? The SOLICITOR-GENERAL: My lord, if my question is regular I am entitled to have it answered. LORD CHIEF JUSTICE BOVILL: I will interpose and check the plaintiff if you wish it; but it is sometimes material to see the mode in which the witness answers the questions, and whether he answers them or makes observations; and again, the tone and manner of the observations the jury may sometimes judge of. However, if you wish me to stop him, I will.” I suppose that was the reason why the Lord Chief Justice of the Common Pleas did not interpose on many occasions on which, judging only from the printed report, I should have thought it would have been necessary to interpose in order to preserve the outward appearance of that decorum and decency of behaviour which ought always to be exhibited in a court of justice, especially by a witness in the witness-box, speaking under the sanction of an oath. Otherwise why the defendant should have been allowed to go on making insolent answers, which I find him to have done in very many instances without being interfered with, checked, or reprehended, as he certainly would have been by me, if I had been sitting on that trial, I confess I do not know.

Later on there comes a most startling statement that he left

England without any intention of going to South America at all. He says his intention was to return from Lisbon, and that he was only prevented from doing so, firstly by illness, and secondly because he could not get his luggage. He is asked, "Do you recollect whether before you went you were averse to going to Chili before you started for Rio?—Yes, I was. Q. You were averse?—Yes. Q. Did you say to several persons, amongst others to a Colonel Lushington, you would not go to Valparaiso?—I believe I did: I believe I promised both Mr. Marks and Mr. Scott that I would not leave England, that I would come back from Lisbon. I breakfasted with Mr. Marks the morning before I started, and Mr. Scott came down and breakfasted with us, and they both persuaded me not to leave England at all. I said I was compelled, my things had gone on board. I promised to come from Lisbon and should have done so if I had been well enough to have done so. Q. When was that; just before you started?—The day before I started. Q. Did you let Mr. Holmes know that?—I do not think I did. Q. Did you let Mr. Hall or Mr. Stephens know that?—I do not think I did either. The LORD CHIEF JUSTICE: Do you mean you started with them, and that having undertaken to go to Chili, you intended to come back from Lisbon?—I told Scott and Marks that I would do so. Q. Did you intend to do so?—I did intend to do it: it was very much against my friends' wishes that I should leave England at all. The SOLICITOR-GENERAL: You having sworn that you intended to go? This was after the affidavit, and the execution of the commission being suspended upon that affidavit?—I think I might as well mention at the same time there were two medical gentlemen who gave their certificate that it was most dangerous for me to attempt to leave England at that time. Q. Who were the two medical gentlemen who gave that certificate?—Dr. Lipscombe and Dr. Covey of Alresford. Q. Did you communicate those certificates to Mr. Holmes?—They were produced to counsel before I went. Q. Dr. Lipscombe and Dr. Covey said that it was dangerous for you to leave England? When did you get those certificates?—When did I get them? Q. Yes?—A day or two previous to my leaving. Q. A day or two previous to your leaving?—Yes. Q. When, exactly, did you leave?—I am sure I could not tell you; it was in September. Q. You started, I think, on the 9th?—Yes, on the 9th of September. Q. You swore on the 3rd that it was necessary; you allowed it to be sworn for you in the affidavit, that counsel had advised that it was necessary and proper you should go, that it was your positive intention to carry out the necessary arrangements for proceeding immediately to Chili and Australia. That was on the 3rd of September; on the 9th you started. When was it that the illness supervened, or did it supervene at that time?—Oh no, I had been ill a long time previous to that.

Q. Did you tell your leading counsel when, as you allowed it to be sworn, he said it was necessary and proper that you should attend, did you tell him then you were unable to go on account of your health?—I did.” Mr. Serjeant Ballantine, who was present, evidently appears to have begun to feel uncomfortable at this, and says, “‘Who was the leading counsel?’ The SOLICITOR-GENERAL: I do not know. And on the 3rd of September you swore: ‘I, this deponent for myself, say I have made the necessary arrangements for proceeding immediately to Chili and Australia, to be present upon the examination of witnesses under the commission.’ On the 3rd of September you allowed it to be sworn that ‘the leading counsel had advised that it was necessary and proper.’ What I want to know is, between the 3rd and 9th did you obtain these certificates?—I cannot answer that question. Q. Have you got them?—Have I got them? Q. Yes?—No. Q. Do you know where they are?—I have never seen them since they were exhibited to counsel. Q. I should like to see those certificates if you can find them, your leading counsel having advised on the 3rd that it was necessary and proper you should go, and you saying it was your positive intention to do so?—I do not know, my Lord, whether I may speak to anyone while I am here: I should like to ask Mr. Holmes’s clerk to produce them. LORD CHIEF JUSTICE BOVILL: Certainly. The SOLICITOR-GENERAL: However, you distinctly swore on the 3rd that it was your intention to go on the 9th: You started six days after?—Yes. Q. Am I to understand that between that time you obtained certificates from medical gentlemen that it was unsafe for you to go?—I really cannot tell you from memory. Q. You really cannot tell?—It is quite impossible for me to tell. Q. Did you obtain them after you had distinctly sworn it was your distinct intention to go, and got a postponement of the execution of the commission upon that affidavit?—Upon which affidavit? Q. Upon the affidavit in which you swore that it was distinctly your intention to go?” Now, the answer is remarkable—“Well, I did go, did I not, part of the way?”—As if an intention distinctly sworn to, to go to Valparaiso was satisfied by going as far as Lisbon and back again!—“Well, I did go, did I not, part of the way?” Then the language of the affidavit is read over again, and he is asked, “Am I to understand that between the 3rd and the 9th of September you obtained certificates that it was unsafe for you to go?—I do not think I gave you to understand that. Q. I ask you so as to understand about it?—I tell you I have no memory on the subject. Q. You have no memory on the subject?—I think, if you wish, the certificates could be forthcoming. Q. I want to know when you got them?—That I do not know. Q. I point out to you what you swear, and what you allow Mr. Holmes to swear for you in your support—I mean on the 3rd—and I point out also from an

affidavit that you started on the 9th; that is only six days. I want to know whether you mean to say that you obtained the certificates between those times?—No, I do not think it was. I think it was previous to that.” There are several more questions on the same subject. It comes to the same thing in the end. He says his friends did not wish him to go. And then he is asked this—“In spite of them, you had determined to go?—Yes. Q. And in spite of them your leading counsel had advised that it was necessary and proper you should go?—One of them did. Q. You started, intending, as you say, if you could come back from Lisbon, you would come back?—That was by the advice of my friends after that, after the affidavit. Q. After the 3rd and before the 9th, is that what I understand you to say?—Yes, that is so. Q. Where was that advice given?—Where? Q. Yes?—It was given in Mr. Marks’ house at Aylesbury, near Alresford. Q. Mr. Marks and Mr. Scott together?—Yes. Q. Did Marks and Scott know that you had sworn that?—Really I cannot swear that. Q. Did you tell them?—No, I did not: I really thought no more of the affidavit, I thought it was a thing as a matter of course that must be made, and took no notice of it. Q. You thought it was?—Yes, merely a formal document. Q. It had answered its purpose—— Mr. SERJT. BALLANTINE: That is not a question.” Then the Solicitor-General says—“Had it answered its purpose by getting the postponement of the commission till the 9th of March?—I cannot say what purpose it was for. The LORD CHIEF JUSTICE: Did you tell them that you had given an undertaking before the judge that you would go out and attend the commission?—I should think not: I do not think I remembered any more of it. The SOLICITOR-GENERAL: Perhaps you thought that was a formal document too, did you?—Well, I should not say formal document, perhaps I use the wrong term, the affidavit is drawn up by the solicitor: I look through to see if it is correct or true, then I swear it. I really do not know what purpose the affidavit was for, and I do not suppose I inquired. Q. The affidavit sworn here was that it was your intention to go?—No doubt at that moment it really was my intention to go,” and so it goes on. Then he says, “I do not think I have the slightest idea for what purpose it was wanted. Q. You had no notion that it was to give you more time to execute the commission, several more months, you did not know that?—I might have been told at the time; I do not remember. Q. You have no recollection whatever?—No, I have no recollection. Q. You have no recollection whether what you wanted was done on your swearing that you would go.” Then he answers again—“And did go part of the way. Q. Yes, and intended to return?—That came from you, not from me. Q. As you said yourself, intended to come back from Lisbon?—From Lisbon, just so: I explain that was by

the advice of my friends the day before I started. *Q.* Did you think that was a performance of your undertaking, intending to come back from Lisbon if you could?—I thought my health would demand of me to come back. **THE LORD CHIEF JUSTICE:** If that was understood, why did you not communicate with Hall and Stephens?—For all I know, I might have done, my Lord: I cannot say that I did not. *Q.* I thought you told us you did not?—I have no recollection. *Q.* I understood you so?—I say I have no recollection of having told them. **THE SOLICITOR-GENERAL:** Did you say you were so ill at Lisbon that you could not get back?—I was very bad with erysipelas. *Q.* At Lisbon?—Yes. *Q.* Have you any recollection of writing about your health from the ship?—No, I have not.” Now he is going to be met by a most staggering contradiction, a contradiction under his own hand. You see his account is that he went out from this country after having made an application to postpone the execution of the Australian commission on the ground of his presence being necessary at Chili, and supported that by an affidavit in which he swore that he had made all necessary arrangements for starting for Chili; that, notwithstanding that, he had intended to go back from Lisbon, but when he got to Lisbon the state of his health was such that he could not leave the vessel, and consequently was carried on the whole distance to Rio. This being so, a letter to Mr. Rous is put into his hands of the 12th September, 1868. We know they had started on the 9th. “Ship Oneida, near Lisbon,” which he explains to mean that they were sailing near Lisbon, and that this was written on the night of the 12th or the morning of the 13th, when they were going up the Tagus. “Dear Rous So far we have had most lovely Weather. and I have been very well, the Erysiplas has quite disappeared.” So that this illness, for which he had obtained the certificate, as he tells us, of medical gentlemen, that it was dangerous for him to leave England, had, fortunately for him, quite disappeared by the time he got to Lisbon. The effect of the three days’ fine sea air and lovely weather had made the erysipelas entirely disappear. “Stevens and Mr. Hall are both quite well. in fact everyone on board. She a very fine Ship and every comfort thats required. I did not like Holmes geting me to sign that Will. at Southampton, as I dont know what is in it. he told me it was the same as the other. but if so why not have let the other remained, My poor dear Mothers death could not have made any differents. I dont like it. the more I think of it the worse my thoughts are about it I will send a Codical desiring my old Will and Codical to stand. and get you to forward it to Wilkins and Bligh. I hope Holmes will not take any mean advantage in my absence. I dont know how I could have been such a fool to sign a Will. without first reading it. but the fact is that man has the power of Faccinating”—spelt with two “c’s”—“mc.

like a black snake. dear Rous I trust entire to you to to look after my dear Wife and children in my absence. do all you can to amuse her. Give my kind regards to Mrs. Rous and Miss Rous and the Boys, and to Mr. and Mrs. Huggins and all the rest of kind Friends I have left behind"—Now mark this—"I will write again from Rio and let you know the remainder of the journey." That is from the man who tells us he intended to turn back from Lisbon, but was prevented from doing it by ill-health, yet who writes very near Lisbon, within twelve hours' steam of Lisbon, to say that the erysipelas had quite disappeared; that everybody on board ship was well, that he is going on to Rio, and will write from thence. Of course when this letter was put to him it must have created some little consternation in his mind. The Solicitor-General says to him:—"I suppose the illness came after this?" Then he says, "There was some reason why I did not come back from Lisbon, and I believe it was on account of the erysipelas. The LORD CHIEF JUSTICE: Q. Do you know what the reason was? What was the reason?—I was under the impression it was my legs, my Lord; they were very bad with the erysipelas. Mr. SERJT. BALLANTINE: It is near Lisbon, not from Lisbon. The SOLICITOR-GENERAL: Is your recollection that the serious illness which would have made you come took place at the date of that letter near Lisbon?—'Made me come' if I possibly could; I never said that. Q. You said you would have come back from Lisbon, if you were not too ill?—That would have prevented me coming back. Q. Did the illness that prevented you coming back from Lisbon come on between the date of that letter and arriving at Lisbon?—I cannot say that; I believe Mr. Scott had a letter in which I state my reasons why I do not come back from there. The LORD CHIEF JUSTICE: Does the fact of having written that letter recall to your mind now the reasons why you did not return from Lisbon?—Yes, it has, my Lord, a portion of my luggage was down below, and it could not be got at." So that you see entirely new ground is here taken. First it is because he is too ill to leave the ship, and then, when his own letter is shown to him, in which he says he is perfectly well, then it is "a portion of my luggage was down below, and could not be got at." Q. "That is the reason why you did not come back from Lisbon?—Yes, my Lord, and you will find that in Mr. Scott's letter." The Lord Chief Justice reads his note: "The reason why I did not come back from Lisbon was, a portion of my luggage was down below, and could not be got at?—Yes, my Lord." Then the Solicitor-General calls attention to the last passage. "I will write again from Rio and let you know the remainder of the journey. Q. What do you say to that?—What do I say to what? that is right enough. Q. Had you made up your mind to come back from Lisbon when you

wrote that letter?—Very probably I had not heard that I could not recover my luggage. *Q.* You were not near Lisbon?—We were not far from it, it was only a few days out. *Q.* You were half way to Lisbon?—Within a very few miles of it. The LORD CHIEF JUSTICE: Did the vessel discharge any cargo at Lisbon?—I suppose that was asked with a view to show that if she had discharged cargo, he could have got his luggage.—“I think not, my Lord; I think she merely called there to coal; she might take a few packages. The SOLICITOR-GENERAL: Will you venture to swear that you had made any inquiry whatever about your luggage?—Yes. *Q.* Of whom?—Of the steward, I suppose. *Q.* The steward?—I cannot say so, but somebody in authority—the purser. *Q.* The purser?—He would be the person. *Q.* You had inquired about your luggage?—Most decidedly I had. *Q.* When you wrote this letter?—I cannot say when I wrote that letter. The LORD CHIEF JUSTICE: Were the passengers and baggage discharged at Lisbon, or not?—Yes, my Lord, but I think they booked for Lisbon only. I had several portions of my luggage put on board, not wanted for the voyage.” First he gives the one reason and then he gives the other. The question is whether you believe him as to either. He is pressed with this again by the Solicitor-General, and the letter is again read: “I have been very well; the cyresipelas has quite disappeared. Stevens and Mr. Hall are both quite well, in fact everyone on board she a very fine ship and every comfort.” Then he says, “I should not imagine it would be that day. *Q.* It was not that day?—I should not think it would be; I suppose you will allow persons frequently say they are quite well when they really are not so?” Then the Solicitor-General with considerable point, says, “People sometimes invert the process—say they are not well when they are. You have seen that done at times?—Yes, I have seen that done.”

One word upon the subject of that will which Mr. Holmes induced him to make before leaving—at least, which the defendant says he induced him to make—and I must say that in this I believe him; and I cannot help saying that it was a most disgraceful transaction for Mr. Holmes to have induced him to make that will, Mr. Holmes being his solicitor and bound to protect him against anything that could interfere with his interests, who would be abundantly repaid for anything that he did by the costs which he would be entitled to charge, or, if he made any advance of money, by the terms which he might stipulate for in making that advance. Mr. Holmes had no business to induce him to make a testamentary disposition in his favour, such not being the just and legitimate reward of his professional services. What does he do? He makes him bequeath a series of legacies, which are as follows:—Mr.

Baigent is to get 500*l.*—that is “Francis,” who was so active in assisting him; Carter is to have 50*l.*; Rous is to have 200*l.*; Mr. Leete, who introduced Mr. Holmes and accompanied the parties to Paris, is for that special service to have 500*l.*; Mr. Adams, the solicitor at Alresford, who assists in getting up the affidavits, is to have, in addition to his professional remuneration, 200*l.*; John Holmes is to have 1,000*l.*, but that is a very small portion of what Mr. John Holmes was to receive. Upton, with all the land belonging to it, is to be John Holmes’s for life. Finally, John Holmes is to be one of the executors of the will, as which he is to get 500*l.* more; and, lastly, with a view to the other trusts of the will, Mr. Holmes is to have the management of the estates, with a salary of 1,000*l.* per annum. I do not wonder that the defendant should write as he did, and blame himself for his folly in having executed such a will as that without having read it, and I cannot help thinking that somehow or other Mr. Holmes must have had a power of fascinating the defendant; but that he should have taken advantage of his position, and of the doubtful circumstances in which the defendant was placed, to induce him to make that will which in the event of the defendant’s succeeding and dying before a new will was made, or in the event of the defendant dying, and Mr. Holmes, on his son’s behalf, being able to carry the cause through to a successful issue, should give Mr. Holmes such advantages as those—a legacy of 1,000*l.*, a second legacy of 500*l.*, making 1,500*l.*, and Upton and the land belonging to Upton for his life, and 1,000*l.*, a-year as long as he lived beside, as manager of the estate, is a thing one cannot understand in a gentleman belonging to the honourable profession of which Mr. Holmes is a member.

Well, the defendant comes back from Chili, having failed to face the witnesses who were to be examined under the Chili commission. And then Mr. Holmes feels that this must bring such disrepute upon the case that he determines to have nothing more to do with it, and to wash his hands of it, and he does so. From that time Mr. Holmes, either because at last his sense of justice was awakened, or that he felt that the refusal of the claimant to face what he had pledged himself to face, that is the Chili witnesses, would bring discredit on the cause and every one connected with it, determined to abandon him. I must say, after all that Mr. Holmes had done—after the affidavit system, and other things in which Mr. Holmes was mixed up—I cannot help thinking myself the defendant might very well have said of him as King Richard did of Buckingham,

“Hath he so long held out with me untired,
And stops he now for breath?”

However, Mr. Holmes thought proper to quit him and give him up, and for some reason or other, I do not know what, Mr. Rous, who

had accompanied him in all his progresses in the country, and stood by him as a staunch friend, turns round upon him, abandons him, and denounces him, and hands over all his letters to the other side. I do not wonder at the defendant saying, "A pretty friend that was!" However, so it was, and if these letters tend to show that the defendant's cause is a dishonest one, and if in the end you should be of opinion that it is a dishonest one, we need not trouble ourselves about the motives of Rous, or stop to inquire whether Rous was actuated simply by a love of justice, or whether he abandoned and betrayed his former friend from any other less worthy and reputable motive. It is quite enough for us, that in some way or other the abandonment of the defendant by Rous has been, or may be, instrumental in establishing and bringing about a knowledge of the truth.

Gentlemen, on the return of the defendant, Mr. Holmes having, as I have said just now, determined to give him up, a meeting of his friends took place at Alresford which Mr. Holmes attended, and the question there was, whether the return of the defendant, without having gone to Chili to face the Chili witnesses, was sufficient to induce these gentlemen who had, up to that time, been supporting him, to give up his cause. At this meeting Mr. Holmes produced the evidence given before the Chili commission. That evidence was read by some of the gentlemen there, and I can only express my very great regret that, the evidence so taken not being admissible on this trial, we have not had more evidence from Chili in the shape of witnesses produced here before us. If those witnesses could speak to the identity of the defendant one way or the other, it would have been very desirable to have them here. Why we have not had more of them here I certainly do not know. If it has arisen from any ill-judged parsimony on the part of her Majesty's government who instituted this prosecution, I think it is very much to be regretted, or if it has arisen from any other, to us unknown, motive or ground, I think in the interest of justice it is equally to be regretted no matter what the cause. There were witnesses there who could have thrown light on this inquiry. We have had but one: a second was brought over who was very little likely to be of any use after the state of mind which he had been in, and which he was in when he came here to be examined as a witness. The body of the witnesses examined under the Chili commission have not been produced on this trial, and I express my unhesitating opinion that they ought to have been. I say the same thing with regard to the witnesses examined under the commission to Australia; it was most essential they should be produced. I can only say this, that when the State undertakes a prosecution there ought to be no difficulty about the production of witnesses, although it may be expensive to bring them. Either drop the prosecution and leave it alone, or if

you take it up you ought to do it energetically, in a way calculated to ensure that justice may be done. And I very much regret, and I express my unbounded surprise and dissatisfaction, that many witnesses, who I know, from having read their evidence on the commission, could have given important evidence and otherwise thrown light on the inquiry, have not been brought before you.

The defendant attended the meeting to which I have just referred, and in addition to the evidence taken before the Chili commission, Mr. Holmes, I presume for the purpose of explaining his own conduct and justifying his abandonment of the defendant's cause, produced also the letters the defendant had written to the Orton sisters, with whom Mr. Holmes had been in communication, and from whom he had obtained these letters. That is the way these letters have been brought before you and produced at this trial. Of course these letters addressed to the sisters of Arthur Orton after the time when, on the part of the defendants in the ejectment suit, the defendant himself had been said to be Arthur Orton, together with the fact that the Chili commission had been granted with the view of ascertaining whether he was Arthur Orton or not, and that he had omitted to face it, were circumstances calculated to operate to the defendant's disadvantage with those friends who met to consider what was to be their course of conduct in the future. The defendant met those letters with the emphatic assertion that they were forgeries, and his assertion to that effect produced an impression on the friends assembled there. They thought he had not acted properly in not going to Chili as he had undertaken to do: on the other hand they did not believe those letters were his letters; they did not believe he had been in communication with the Orton sisters in this way, and they came therefore to a sort of modified resolution. This is what the defendant said about it. "Were there some letters produced by Mr. Holmes, and laid before the meeting from a Mrs. Tredgett and a Mrs. Jury, do you recollect?—I do not know who they were from. I do not know whether they were from Mrs. Tredgett; there was one from Mrs. Jury. Q. Were there any letters produced to Mrs. Tredgett and Mrs. Jury, said to be in your handwriting?—That is what I mean, I do not know if Mrs. Tredgett's name was in it or not. Q. Mrs. Jury?—Yes. Q. They were produced by Mr. Holmes?—They were. Q. Said to be in your handwriting?—Yes. Q. Have you got them?—Me? no. Q. Were they in your handwriting?—They were. Q. Did you say they were not?—I did." The Lord Chief Justice is startled at hearing this, and he says: "Did I hear you rightly, 'They were in my handwriting, I said they were not'?—Yes. The SOLICITOR-GENERAL: They were in your handwriting, and you said they were not, why—Because I thought I should lose my friends by saying they were." It appears the friends

were never undeceived till the defendant made this admission, and Mr. Scott, who we know from questions put to the defendant was examined on the former occasion as well as Mr. Marks, came into the witness-box, under the impression that the defendant had stated the truth in saying these letters were forgeries. Whether, if Mr. Scott had known the deception which was practised on him on that occasion, he would have resumed his support of the defendant—for I should state that they resolved he had not shown sufficient candour and fairness and they came to a modified resolution that they could not support him any longer; but Mr. Scott and one or two more afterwards thought they had been a little hard on him, and they resumed their relations with him and still supported him—whether, as I say, if Mr. Scott had been undeceived, and had known of the deception practised on him, he would have come forward on the former occasion and continued his support, I do not know. Mr. Scott is unfortunately dead, and we can only speculate on that. It is quite certain that on some of the defendant's friends this disclosure of fraud and falsehood had no effect. There are people who think that provided your end is fair and reasonable, there is no baseness you may not stoop to, and no falsehood you may not have recourse to. They do not think the worse of a man because there are those blots upon his escutcheon—those things which tend to show, whether he be A or whether he be B, that he has been guilty of dishonourable baseness and bad conduct. When once they have taken up a cause, there are people who will go through with it, no matter what opprobrium or what darkness may attach to it; nay, there are even some, as far as one may judge from what one has seen and heard, who only hug a man the closer, the blacker he may appear to them to be. These falsehoods, however, must not operate unduly to the prejudice of the defendant beyond this, that falsehood is a badge of fraud; and a case which is sought to be supported by means of deception may, *primâ facie*, until the contrary be shown, be taken to be a bad and dishonest case; and further, the recourse to fraud and falsehood necessarily engenders distrust. But the fact that the defendant did make this solemn denial of the genuineness of letters, which he afterwards was compelled to admit were in his own handwriting, ought not to operate to his prejudice in the way I have stated, unless you can otherwise see your way on the whole of the evidence before you to the conclusion that he is not the Roger Tichborne whom he has represented himself to be.

Now, gentlemen, before I pass to the branch of the case which the facts and materials before us will shortly enable us to enter upon, I mean the question whether the defendant is Arthur Orton or not, it is necessary to complete the series of facts material to the elucidation of that question, by laying before you what has passed between

the defendant and this Orton family. You will remember that the first thing he did upon coming to this country was immediately to seek out the Ortons. You will remember that he did so under a feigned name, and under circumstances of suspicion; that as soon as he had discovered what he wanted to know, as he himself tells us, he dropped them, put them on a false scent by telling them to write to him at Liverpool, and took no further notice of them; and so things remained until the latter part of the year 1867, when the Arthur Orton theory was started on the part of the defendants in the ejectment suit, with a view of showing that the defendant was Arthur Orton, and therefore could not be Roger Tichborne. Then the relations with the Orton family were resumed, and it appears that from that time to the time the defendant went abroad on his way to Chili, he was in communication with Charles Orton and the Orton sisters, and was in the habit of supplying them with money. He is asked on cross-examination, "How soon after the receipt of that letter upon which I asked you some questions yesterday, did you call on Mrs. Jury?—Which letter? The LORD CHIEF JUSTICE: There were two. Give him the one. The SOLICITOR-GENERAL: The letter I cross-examined you upon yesterday, in which you say, 'I cannot call on you at present, but will do so before long'?"—That, you know, was one of his early letters—He answers, "I never called on her at all. Q. Did you call on any of Arthur Orton's sisters?—Yes, I called on two of them in company with my solicitor. Q. Who were they?—Mrs. Tredgett and Mrs. Jury, I think. Q. You say you think: do you mean that you do not know?—Yes, it is so: I believe it is said so in the affidavit. Q. That may be; I ask you now if it is so; you say Mrs. Tredgett and Mrs. Jury; which Mrs. Jury?—Not the one I wrote the letter to, Mrs. Captain Jury. Q. This was not Mrs. Captain Jury?—No. Q. The one you called on was Mrs. Captain Jury, was it?—No, the one I wrote that letter to was Mrs. Captain Jury. Q. And the one you called on was the other Mrs. Jury?—Yes. Q. With your attorney?—With my attorney. Q. When was that?—I could not tell without looking at the affidavit; I dare say that will give you the date. Q. Never mind; cannot you tell me about the time?—No, I cannot tell you when it was. Q. Cannot you tell me how soon after these letters?—Not for a long while after. Q. What do you mean by 'long'?—If the date is there, why not let us get it? Q. Do not ask me questions; I want to know when you called?—Allow me to look at the affidavit, then I can tell you. Q. Answer my question, and tell me when about you called?—I cannot tell you. Q. About; I do not ask you the day?—I believe it was about twelve months afterwards. Q. Had you communications with them between?—Yes, I had. Q. Did you pay them money?—Yes, I let them have some money. The

SOLICITOR-GENERAL: Did you let them have money before they made their affidavits?—I cannot say, I think I had; yes. Q. Have you any doubt?—You see I do not know the date of the affidavits, but I believe it was so; yes. Q. Have you any doubt it was so?—Considering you will not let me look at the date——Q. Have you any doubt, whatever was the date of the affidavit, you let them have money before it was made?—No; I believe it was so. Q. Have you any doubt?—I cannot speak for dates. Q. Never mind about the date of the affidavit: before it was made, whenever it was made, had you given them money?—I think I had; yes. Q. Do not you know you had?—That is another question; I am aware I let them have money, but I do not recollect when it was. Q. Do not you know, before they made affidavits on your behalf, you had given them money?—I tell you I believe I had done so. Q. Was there a brother of Arthur Orton called Charles?—Yes. Q. Had you given him money?—I had; yes. Q. Before he made any affidavit?—I am not aware he made any affidavit. Q. Before he made any statement?—Yes, I believe it was. Q. How did you send the money to them; did you give it to them with your own hands?—No, I never saw them until I saw them in the presence of my attorney. Q. How did you send the money to them?—By letter. Q. Do you mean by cheque?—Yes; some was by cheque, I think, and some was in notes. Q. Did Charles Orton correspond with you under the name of Brand?—I believe he did in the latter part. Q. You believe he did?—Yes. Q. What do you mean by ‘the latter part’?—Well, at first he did not. Q. What do you mean by ‘the latter part’? about when?—I think it was the beginning of 1868. The LORD CHIEF JUSTICE: Who was it used the name of Brand?—Himself, my lord. The SOLICITOR-GENERAL: The cheques had been paid, had they?—I suppose so; yes. The LORD CHIEF JUSTICE: Besides his using the name of Brand, in your communications with him, did you use the name of Brand? The SOLICITOR-GENERAL: I am coming to it, we shall have some letters. Q. Have you got the cheques?—No. Q. Have they been paid?—I could not tell you, I am sure. Q. You suppose they have been paid; if paid you must have them?—I do not see that that follows. Q. Or you must have the means of getting them?—Certainly. Who did you draw upon when you paid by cheques?—What bank? Q. Yes?—I could not tell you at the present moment. Q. Do you mean to say you cannot recollect on what bank you drew?—No. Q. On what bank you drew in paying the brother and sisters of Arthur Orton?—It was the brother I spoke of; I did not send the sisters any cheques, I think. Q. You did not send the sisters any cheques, you think: Are you sure?—Yes. Q. Sure?—Yes, I am pretty sure of that. Q. How did you pay them?—I think I generally sent them notes. Q. You think you

generally sent them notes?—Sent them a note; yes. *Q.* Do you mean a bank note?—Yes. *Q.* With letters?—Yes, I dare say with letters. *Q.* You dare say there are letters?—Well, there was sure to have been a letter with it, certainly. *Q.* You paid Charles Orton by a cheque?—I know I sent him one. I do not know that I sent him more. *Q.* Cannot you tell on whom it was drawn?—No. *Q.* Who were your bankers?—Bulpett and Hall, of Alresford, and Robinson, of the Union Bank, at Croydon.” Then an inquiry is made about his pass book, and an objection taken as to due notice not having been given, so as to entitle the Solicitor-General to the production of the cheques. Then the examination goes on. “Did you get acknowledgments, when you sent the cheque or cheques, and the note or notes, of the receipt of them, from Arthur Orton’s sisters?—I should think the probability would be I did. *Q.* And Arthur Orton’s brother?—I should think so. *Q.* Where are they?—Oh they are destroyed, if there were any; I have some letters. *Q.* Do you swear they were destroyed?—Well, I think so; I think I used to destroy them. *Q.* You say, ‘I have some letters;’ what letters?—There are some letters from Mrs. Jury, I think. *Q.* Where are the letters from Mrs. Jury?—They are here, I think. I do not think they refer back to that date you are speaking of. *Q.* What I want is an acknowledgment from Mrs. Jury?—I do not think there is any. *Q.* I thought you said so?—I do not think I sent Mrs. Jury any money at all, if you ask me. *Q.* I am asking you if you sent money to the sisters and brother of Arthur Orton?—Yes, so I understood your question. *Q.* And I ask you if you had an acknowledgment of the money so sent?—No, I think I sent money to one sister and to the brother. *Q.* You believe; do not you know?—I tell you I know I sent money to one sister and the brother. *Q.* To which sister?—To neither of the Mrs. Jurys. *Q.* To Mrs. Tredgett?—To Mrs. Tredgett; Yes. *Q.* Did you send no money to either of the Mrs. Jurys?—To neither of the Mrs. Jurys. *Q.* That you swear?—That I swear. **THE LORD CHIEF JUSTICE:** Money or notes?—Well I should mean money by notes, of course; the notes would be considered money, would not it? *Q.* I should have so understood it, but I rather collected that you said the other way?—No. **THE LORD CHIEF JUSTICE:** No, it was about calling on them. **THE SOLICITOR-GENERAL:** You said just now you sent money to the sisters?—Yes; to the sister I ought to have said, perhaps. *Q.* Ought to have said! The statements are different: Did you send money to more than one sister?—No, only to the one. *Q.* Only to the one, Mrs. Tredgett?—Mrs. Tredgett. *Q.* Was she living in the same house with one of the Jurys?—I believe she was. *Q.* Which?—Not Mrs. Captain Jury. *Q.* The Mrs. Jury you first wrote to?—No, I never wrote to the other Mrs. Jury at all.

Q. Who was the sister you wrote to?—*Mrs.* Captain Jury and *Mrs.* Tredgett. That is the only two I wrote to. *Q.* The first letter, you know?—That was to *Mrs.* Captain Jury. *Q.* Have you got any of the letters that Charles Orton sent to you under the signature of Brand?—No; I have not. *Q.* What has become of them?—I destroyed them. *Q.* Will you swear that?—I will swear that. *Q.* You destroyed Brand's letters, did you?—Yes. *Q.* Do not you know that some of those letters were given to Holmes?—If so, then, of course, *Mr.* Holmes has got them. *THE SOLICITOR-GENERAL:* We call for them?—But I do not think I gave any to *Mr.* Holmes. *MR. GIFFARD:* Only one. *THE SOLICITOR-GENERAL:* Let us have that one, then." Then an objection is raised as to whether *Mr.* Holmes should be called on to produce this letter. That is got rid of, and it turns out *Mr.* Holmes has none to produce. Then a letter is put in signed in the name of Brand, sent to the defendant's wife after the defendant had gone away to South America.

Gentlemen, Charles Orton, when he found the defendant had gone away to South America, was extremely angry at finding that no provision had been made for him during the absence of the defendant. He first wrote to the defendant's wife, and receiving no answer, he went over to the other side and told the whole story. That is really what it amounts to. He first writes this letter:—"No. 1, Melon Grounds, Marten Road, Peckham, Surrey. To Lady R. C. D. Tichborne. Madam—I have taken the liberty of writing to you to ask you if Sir R. C. D. Tichborne left any letters or message for a party of the name of Brand before he went away. If he as I should feel much obliged if you would forward them to the above address, as I think it is strange that he did not answer the Two letters that I wrote to him before he went. Please to burn this as soon as you have read it." This letter having been read, the defendant is asked:—"Now had you some letters before from Charles Orton under the name of Brand?—Yes, several. *Q.* What allowance had you been making him?—Well, for two or three months I allowed him 5*l.* a month, I think. *Q.* What did you allow any other of the relations of Charles Orton?—I did not make any allowance; whenever they wrote to me and wanted any—were in distress—I used to send them some. *Q.* You say they were in distress: had *Mrs.* Tredgett any other means of subsistence besides what you allowed her?—I really cannot say; I do not know anything about her affairs. *Q.* You do not know anything about her affairs?—No. *Q.* You mean to swear that?—I swear that positively. *Q.* That you do not know whether she had any other means of subsistence besides that?—Not the slightest idea more than you have. *Q.* What about, now, did you allow her? What did it come to? You say you sent it to her when in distress?—Well, I have never sent her more than 5*l.* at a time. *Q.* How

often do you think you sent her 5*l*.?—I suppose I sent the two of them, in all, between 30*l*. and 40*l*. Q. ‘The two of them, in all,’ who do you mean?—The brother and the sister. Q. You mean to swear you have never given the others any money at all—the other two sisters?—I swear that positively. Yes. Q. Never a farthing?—Never one farthing to my knowledge. Q. That you swear?—That I swear.” Then a letter is read from the defendant to the wife of Captain Jury, Mrs. Captain Jury as she is called, dated the 11th July. This was before he left. “Dear Madam—I have just received your letter and hasten to reply to the same. I received a letter from your Husband Captn Jury. but not knowing his writing I did not know if it was a Trick of my enemys or not. therefore did not answer it I have not heard from your brother Arthur since. but I have advertisements for him in the Australian papers. I had an Interview with Capt. Angell and your brother Charles the other day at my Solicitors Office in presents of Col. Lushington and Mr. Holmes. It appears the Solicitors of the other side got Capt. Angell to make an Affidavid before he left England on his last trip stating that my photograph was the photo of your brother Arthur. However since he has seen me he is convinced to the contrary. and is going to make an Affidavids as also your brother Charles in my favour. I shall be in Town early next week and will make arrangement to meet you. I will write to you again before that. your Sisters have been most kind to me and I am affraid have had to put up with much annoyance on my account. I have sent you by book post a portions of my Affidavids. which contains them of your Sisters.”—So that we gather from that letter that these two sisters had by the 11th July made affidavits in favour of the defendant—“I have no doubt you will be visited by detectives and other as soon as it is known you are in England.” I suppose she had been away and had only recently come to England. The rest of the letter is wanting. On the 15th of July he writes to her: “I shall be at my Solicitor’s to morrow about eleven o’clock where I should have great pleasure in meeting you If convenient for you to come if not write to me there and let me know where you can meet me and when Lady t thanks you kindly for your kind wishes. I remain Dear Madam truly yours R. C. D. Tichborne.”

Then the defendant is asked—“Did you see them often, these sisters?—I have only seen them on one occasion, in the presence of my attorney. Q. Was that after you made this appointment?—Yes, after I made that appointment. Q. After the 15th July, 1868?—I really will not confine myself to dates: It was after that letter.” The Solicitor-General repeats the date of the letter. “You did not see them until the appointment made by that letter?—No; not till the appointment. Q. You did not see them until after this letter?—

No. Q. One is the 11th, and the other is the 15th July?—Yes. Q. You did not see them until after those letters?—No. Q. None of them?—No. Q. Not at all?—Not at all. Q. Had you many letters from them?—Yes, I had a good many from them. A good —?—Yes. Q. There were letters from them? A good many?—Yes; I think there were from them. Q. From all three?—No; I told you before I destroyed all letters of Charles Orton. Q. From all three sisters?—No. I think one sister never wrote to me at all; I do not remember her having done so. I only remember two writing. Q. What has become of those letters?—They are in the possession of my attorney, I suppose. Q. The letters from Arthur Orton's sisters to you?—Yes. Q. You say you had several letters?—Yes, I have. Q. At what date? When did you have the letters from her? You have only spoken of one at present?—At different periods. Q. You landed at the end of 1866?—Yes. Q. You made an appointment to see one of them: Which one was it that you wrote these letters to, that you made an appointment to see in July, 1868?—That was Mrs. Captain Jury. Q. If I have collected your evidence rightly, from the time you landed at the end of 1866, till July, 1868, you had never seen either of them?—No, I had never seen either of them. Q. And then made an appointment to see Mrs. Captain Jury?—Yes. Q. And I suppose you did see her?—And did see her. Q. Now, what I want to know is, from which of the three sisters—there are three, Mrs. Tredgett, and two Mrs. Jurys?—Yes. Q. From which of the three sisters had you received letters in the intermediate time, between the end of 1866, and July, 1868?—From Mrs. Captain Jury and Mrs. Tredgett. Q. And more than one from each?—I think so; yes. You read two or three, from one, yourself. Q. Have I?—Yes. Q. I was not aware of it. I think that must be like Mrs. Someone else's dream?—I thought you had done so last night. Q. I think not, as far as I can remember; there were several then, or at least more than one from each of them?—Yes, I think so. Q. From Mrs. Captain Jury and Mrs. Tredgett?—Yes. Q. And do you say you think all those were handed over to Mr. Holmes?—No, I think they were destroyed. Q. Which?—I destroyed all the letters I received from them up to going to South America. Q. You destroyed all the letters you received from them up to the time you went away to South America?—Yes. Q. Did you destroy other letters? Did you keep some?—Yes, there were some letters I kept. Q. Are you speaking of those?—Generally. Q. Why did you destroy those?—I was not aware they would be of any use. Q. Did you think them of any importance—the letters of Charles Orton and his sisters?—None whatever. Q. Mrs. Tredgett you know you were from time to time supplying with money?—Yes. Q. Did you not think it was important to keep her letters?—No, I did not. Q. Then what are the letters—because

you used the plural number—that you did hand over to Mr. Holmes? —To Mr. Holmes? I never said I handed Mr. Holmes any.
Q. That Mr. Holmes has?—I did not say that Mr. Holmes has.
Q. That Mr. Spofforth has?—The letter I received from Mrs. Jury?
Q. Since you came back from South America?—Yes. *Q.* What I want is, any letters which you had before you went to South America?—There was none: I think I destroyed them all from those parties.”

That, Gentlemen, is the important part. The defendant having been in the habit of supplying sums of money to these people, or some of them, to Charles Orton certainly, and to Mrs. Tredgett living in the same house with Mrs. Captain Jury, and having letters written to him, which letters, from their internal contents, would have enabled anyone who examined them critically to judge whether the correspondence was carried on on the footing of the defendant being Sir Roger Tichborne, or on the footing of his being a connection or a brother of these people, one would have thought that for his own sake, if it was in the character of Roger Tichborne they were corresponding with him, he would have kept the letters, in order to be able to show that the intercourse between him and them had been one of a perfectly innocent character. Instead of which the defendant tells us that he deliberately and purposely destroyed those letters. Then there is a witness, a man of the name of Scowen—who proves that, being a railway porter at Croydon, he was employed by the defendant to take a parcel to the place where this Mr. Charles Orton was residing, and to deliver it there to him, it being addressed to him under the name of Brand.

The result is what I have been telling you. The defendant puts himself into communication with the Orton family; he obtains from them the information which he desired to get, or all he could get, such as it was; he then drops them for twelve months; then he takes them up, gives them pecuniary assistance, has communication with them in the way of letters, and destroys those letters; denies all knowledge of them, or of ever having been to Wapping, where he went in search of them; goes away to Chili, forgets to make any provision for Charles Orton in the meanwhile—and then Charles Orton, finding he had gone, betrays him.

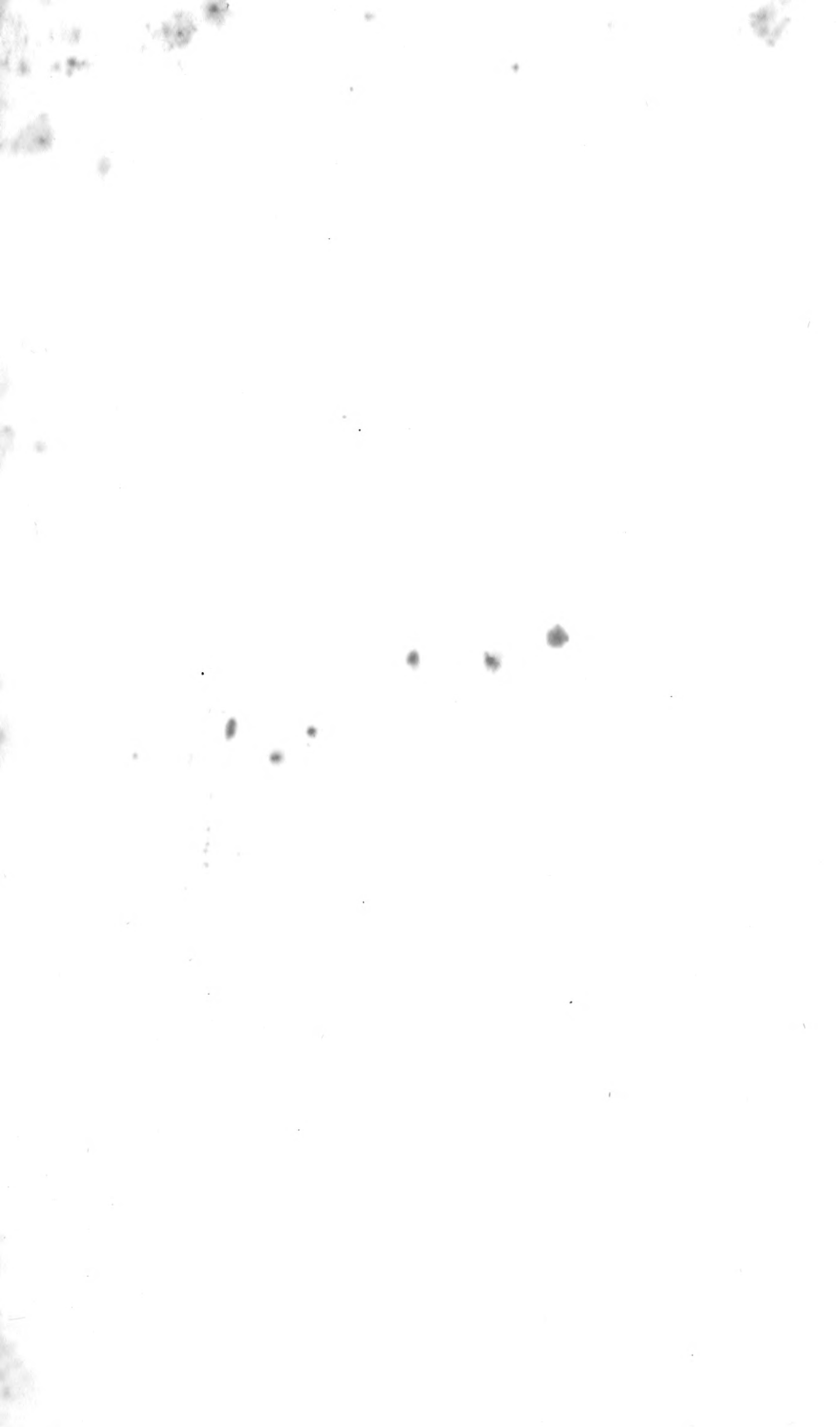
Now all this forms, you will doubtless think, an important chapter in the history of this case, look at it in what way we will. If you look at it with reference to Roger Tichborne, why should Roger Tichborne have taken this course? Why should he have sought out the Ortons as the defendant did, or if he thought proper to find out about the Orton family and relieve them, why should he have shrouded it in mystery and concealment? If you look at in the other view with reference to the Arthur Orton case, you will have to consider whether it does not tend very strongly to show that this

intercourse was kept up with the Orton sisters and Charles Orton, because it was necessary to keep them quiet—because they could, by asserting that the defendant was not their brother, give him most valuable assistance and protection in that respect; while, on the other hand, if they knew he was their brother, their coming forward to state it might most seriously damage and endanger his case. That these facts staggered Mr. Holmes, and influenced him in giving up the case, would appear from a letter which Mr. Holmes wrote in the month of October to Mr. Rous. On the 13th October, 1868, he writes to him: “Dear Sir, I regret to say it is perfectly true that Charles Orton has made an affidavit that Sir Roger is his brother. I traced the fellow out at Peckham last Saturday, and obtained the admission from his own lips. He states that he did so after seeing Whicher and Lord Arundell, because Sir Roger did not leave him anything before going abroad. Of course I complained of the deception he practised upon me, Colonel Lushington, Mr. Bulpett, and Mr. Scott, each of whom he told at different times that Sir Roger was not his relation, but he excused himself for so doing upon the ground that since May, 1867, he had been acting as Sir Roger told him. He says he destroyed all the writing he received from Sir Roger with the exception of two scraps, containing promises to send him money, and which he handed over to Mr. Bowker. I learned from Charles Orton on Saturday the startling piece of news that Arthur Orton had been to Valparaiso, and remained some time in Chili before he left England in 1852 for Hobart Town, and could speak some Spanish. I have since made searches at the Seamen’s Registry Office, and find that Arthur Orton did sail in the ship ‘Ocean’ for Antwerp and Valparaiso in 1848. Mrs. Tredgett, his sister, told me this morning also, that Arthur came home from Valparaiso just before going on board the ‘Middleton’ to Hobart Town. I write all this to Sir Roger and Mr. Stephens by the mail of the 16th inst.”

These are the facts connected with the intercourse of the defendant with the Orton family, forming, I think you will be of opinion, an essential feature in the Orton case, which case I am about to submit to you; for we have now brought the case up to the point at which it becomes necessary to enter upon one of the main issues in this cause: is the defendant Arthur Orton or is he not? It is to this most vitally important part of this inquiry that I shall next proceed to direct your attention.

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